

JAN 26 2011

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# A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1           SECTION 1. The legislature finds that the current charter  
2 school review panel is unable to sufficiently execute its  
3 mandate to administer the thirty-one charter schools currently  
4 in the State. In order to address this deficiency the charter  
5 schools should be placed under the authority of the board of  
6 education. This will increase both the efficiency and the  
7 accountability of the charter schools.

8           The purpose of this Act is to eliminate the charter school  
9 review panel and to put the State's charter schools directly  
10 under the authority of the board of education.

11           SECTION 2. Section 89-6, Hawaii Revised Statutes, is  
12 amended by amending subsection (f) to read as follows:

13           "(f) The following individuals shall not be included in  
14 any appropriate bargaining unit or be entitled to coverage under  
15 this chapter:

16           (1) Elected or appointed official;

17           (2) Member of any board or commission; provided that

18           nothing in this paragraph shall prohibit a member of a



- 1 collective bargaining unit from serving on a local  
2 school board of a charter school [~~or the charter~~  
3 ~~school review panel established under chapter 302B~~];
- 4 (3) Top-level managerial and administrative personnel,  
5 including the department head, deputy or assistant to  
6 a department head, administrative officer, director,  
7 or chief of a state or county agency or major  
8 division, and legal counsel;
- 9 (4) Secretary to top-level managerial and administrative  
10 personnel under paragraph (3);
- 11 (5) Individual concerned with confidential matters  
12 affecting employee-employer relations;
- 13 (6) Part-time employee working less than twenty hours per  
14 week, except part-time employees included in unit (5);
- 15 (7) Temporary employee of three months' duration or less;
- 16 (8) Employee of the executive office of the governor or a  
17 household employee at Washington Place;
- 18 (9) Employee of the executive office of the lieutenant  
19 governor;
- 20 (10) Employee of the executive office of the mayor;
- 21 (11) Staff of the legislative branch of the State;



- 1       (12) Staff of the legislative branches of the counties,  
2               except employees of the clerks' offices of the  
3               counties;
- 4       (13) Any commissioned and enlisted personnel of the Hawaii  
5               national guard;
- 6       (14) Inmate, kokua, patient, ward, or student of a state  
7               institution;
- 8       (15) Student help;
- 9       (16) Staff of the Hawaii labor relations board;
- 10      (17) Employees of the Hawaii national guard youth challenge  
11             academy; or
- 12      (18) Employee of the office of elections."

13       SECTION 3. Section 302A-101, Hawaii Revised Statutes, is  
14 amended by deleting the definition of "charter school review  
15 panel".

16       ~~["Charter school review panel" or "panel" means the panel  
17 established in section 302B-3."]~~

18       SECTION 4. Section 302A-1101, Hawaii Revised Statutes, is  
19 amended by amending subsection (d) to read as follows:

20       "(d) The board shall ~~[appoint the charter school review  
21 panel, which shall]~~ serve as the charter authorizer for charter  
22 schools, with the power and duty to issue charters, oversee and



1 monitor charter schools, hold charter schools accountable for  
2 their performance, and revoke charters. The board shall  
3 establish operating procedures that shall include conflict of  
4 interest provisions for any member whose school of employment or  
5 local school board membership is before the board. The powers  
6 and duties of the board with regard to charter schools shall be  
7 to:

- 8       (1) Appoint and evaluate the executive director and  
9       approve staff and salary levels for the charter school  
10       administrative office;
- 11       (2) Review, approve, or deny charter applications for new  
12       charter schools in accordance with section 302B-5 for  
13       the issuance of new charters; provided that applicants  
14       that are denied a charter may appeal to the  
15       intermediate court of appeals for a final decision  
16       pursuant to section 302B-3.5;
- 17       (3) Review, approve, or deny significant amendments to  
18       detailed implementation plans to maximize the school's  
19       financial and academic success, long-term  
20       organizational viability, and accountability;
- 21       (4) Pursuant to section 302B-3.6, compile prioritized  
22       lists of charter schools and enter into necessary



- 1           agreements to authorize charter schools to use and
- 2           occupy vacant public school facilities or portions of
- 3           school facilities;
- 4           (5) Adopt reporting requirements for charter schools;
- 5           (6) Review annual self-evaluation reports from charter
- 6           schools and take appropriate action;
- 7           (7) Adopt a clear process and rigorous organizational and
- 8           educational criteria, including student achievement as
- 9           a significant factor, for the authorization and
- 10           reauthorization of school charters;
- 11           (8) Evaluate each school charter, for the purpose of
- 12           determining reauthorization, no later than four years
- 13           following the initial issue of a charter and every six
- 14           years thereafter;
- 15           (9) Evaluate any aspect of a charter school that the panel
- 16           may have concerns with and take appropriate action,
- 17           which may include probation or revocation;
- 18           (10) Periodically adopt improvements in the board's
- 19           monitoring and oversight of charter schools;
- 20           (11) Periodically adopt improvements in the charter school
- 21           administrative office's support of charter schools and
- 22           management of the charter school system;



- 1        (12) Review, modify, and approve charter schools' all means  
2        of finance budget, based upon criteria and an approval  
3        process established by the board;
- 4        (13) Survey all charter school facilities prior to, and in  
5        preparation for, determining recommendations to  
6        allocate non-per-pupil facilities funds to charter  
7        schools with facilities needs. The survey shall  
8        include, at minimum, for each charter school facility:
- 9        (A) The current status of the facility;  
10       (B) Facilities costs, including all rents, leases,  
11       purchases, and repair and maintenance for lands  
12       and buildings;
- 13       (C) A prioritized list of facilities needs;  
14       (D) Any capital improvement projects underway or  
15       scheduled; and
- 16       (E) Whether the facility is a conversion or start-up  
17       charter school, and current and projected  
18       enrollment; and
- 19       (14) Evaluate and investigate charter schools when concerns  
20       arise that necessitate the resolution or assistance  
21       with the resolution of legal, fiscal, health, safety,  
22       and other serious issues."



1           SECTION 5. Section 302A-1151.5, Hawaii Revised Statutes,  
2 is amended by amending subsections (b), (c), (d), and (e) to  
3 read as follows:

4           "(b) The department shall submit a notice of possible  
5 availability of a public school to the [~~charter school review~~  
6 ~~panel~~] board as early as possible; provided that if a vacancy is  
7 established, a notice of vacancy shall be submitted to the  
8 [~~charter school review panel~~] board no later than thirty days  
9 after the establishment of the vacancy.

10           (c) Pursuant to section 302B-3.6 and upon receipt of a  
11 notice pursuant to subsection (b), the [~~charter school review~~  
12 ~~panel~~] board shall solicit applications from charter schools  
13 interested in using and occupying all or portions of the  
14 facilities of the public school and submit a prioritized list of  
15 charter schools to the department for final determination of  
16 which charter school, if any, shall be authorized to use and  
17 occupy the public school facilities.

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



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

12 SECTION 6. Section 302B-1, Hawaii Revised Statutes, is  
13 amended as follows:

14 1. By adding a new definition to be appropriately inserted  
15 and to read:

16 "Chairperson" means the chairperson of the board of  
17 education unless expressly described as the chairperson of the  
18 local school board."

19 2. By amending the definition of "organizational  
20 viability" to read:

21 "Organizational viability" means that a charter school:





- 1 (1) Has been duly constituted in accordance with its  
2 charter;
- 3 (2) Has a local school board established in accordance  
4 with law and the charter school's charter;
- 5 (3) Employs sufficient faculty and staff to provide the  
6 necessary educational program and support services to  
7 operate the facility in accordance with its charter;
- 8 (4) Maintains accurate and comprehensive records regarding  
9 students and employees as determined by the office;
- 10 (5) Meets appropriate standards of student achievement;
- 11 (6) Cooperates with board[, panel,] and office  
12 requirements in conducting its functions;
- 13 (7) Complies with applicable federal, state, and county  
14 laws and requirements;
- 15 (8) In accordance with office guidelines and procedures,  
16 is financially sound and fiscally responsible in its  
17 use of public funds, maintains accurate and  
18 comprehensive financial records, operates in  
19 accordance with generally accepted accounting  
20 practices, and maintains a sound financial plan;
- 21 (9) Operates within the scope of its charter and fulfills  
22 obligations and commitments of its charter;



1 (10) Complies with all health and safety laws and  
2 requirements; and

3 (11) Complies with all [panel] board directives, policies,  
4 and procedures; and

5 3. By deleting the definition of "charter school review  
6 panel".

7 [~~"Charter school review panel" or "panel" means the panel~~  
8 ~~established pursuant to section 302B-3 with the powers and~~  
9 ~~duties to issue and revoke charters, approve detailed~~  
10 ~~implementation plan revisions, and conduct charter school~~  
11 ~~evaluations.~~"]

12 SECTION 7. Section 302B-3.5, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "[+]§302B-3.5[+] Appeals; charter school applications,  
15 revocations, or detailed implementation plan amendments. [The  
16 ~~board shall have the power to decide appeals from decisions]~~  
17 Decisions of the [panel] board to deny the approval of a charter  
18 school application, revoke a charter school's charter, or deny  
19 the approval of an amendment to a charter school's detailed  
20 implementation plan[.—An] may be appealed to the intermediate  
21 court of appeals, subject to chapter 602, in the manner provided  
22 for civil appeals from the circuit court; provided that the



1 appeal shall be filed with the [~~board~~] intermediate court of  
 2 appeals within twenty-one calendar days of the receipt of the  
 3 notification of denial or revocation. Only a party whose  
 4 charter school application has been denied, whose charter has  
 5 been revoked, or whose amendment to a detailed implementation  
 6 plan has been denied may initiate an appeal under this section  
 7 for cause. [~~The board shall review an appeal and issue a final~~  
 8 ~~decision within sixty calendar days of the filing of the appeal.~~  
 9 ~~The board may adopt applicable rules and procedures pursuant to~~  
 10 ~~chapter 91 for implementing the appeals process.] "~~

11 SECTION 8. Section 302B-3.6, Hawaii Revised Statutes, is  
 12 amended to read as follows:

13 " **[+]§302B-3.6[+]** **Occupancy and use of facilities of public**  
 14 **schools.** (a) When the department considers whether to close  
 15 any particular public school, the department shall submit a  
 16 notice of possible availability of a public school or notice of  
 17 vacancy of a public school to the [~~charter school review panel~~]  
 18 board pursuant to section 302A-1151.5(b); provided that the  
 19 department has not elected to use the public school to support  
 20 education programs.

21 (b) If a charter school exclusively or jointly occupies or  
 22 uses buildings or facilities of a public school immediately



1 prior to converting to a charter school, upon conversion that  
2 charter school shall be given continued exclusive or joint use  
3 of the buildings or facilities; provided that:

4 (1) The State may reclaim some or all of the buildings or  
5 facilities if it demonstrates a tangible and  
6 imperative need for such reclamation;

7 (2) The State and the conversion charter school  
8 voluntarily enter into an agreement detailing the  
9 portion of those buildings or facilities that shall be  
10 reclaimed by the State and a timetable for the  
11 reclamation. [~~If a timetable cannot be reached, the~~  
12 ~~State may petition the panel for the reclamation, and~~  
13 ~~the panel may grant the petition only to the extent~~  
14 ~~that is not possible for the conversion charter school~~  
15 ~~and the department to jointly occupy or use the~~  
16 ~~buildings or facilities.]~~

17 (c) Upon receipt of a notice pursuant to section 302A-  
18 1151.5(b), the [~~panel~~] board shall solicit applications from  
19 charter schools interested in using and occupying all or  
20 portions of the facilities of the public school by:

21 (1) Promptly notifying all charter schools that the public  
22 school is being considered for closure; and



1           (2) Affording each charter school an opportunity to submit  
2           an application with a written explanation and  
3           justification of why the charter school should be  
4           considered for possible occupancy and use of the  
5           facilities of the public school.

6           (d) After fully considering each charter school's  
7           application and based on the applications received and on other  
8           considerations, the ~~[panel]~~ board shall:

9           (1) Provide a written response to each charter school's  
10           application after each application has been fully  
11           considered; and

12           (2) Compile a prioritized list of charter schools and  
13           ~~[submit the list to the department for]~~ make a final  
14           determination of which charter school, if any, shall  
15           be authorized to use and occupy the public school  
16           facilities.

17           (e) 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 ~~[panel]~~ board shall ~~[enter into necessary agreements]~~  
20           within ninety days of the selection ~~[to]~~ carry out the purposes  
21           of this section; provided that any ~~[agreement between the panel~~  
22           ~~and the department]~~ final determination of which charter school



1 shall be authorized to use and occupy the public school  
2 facilities shall stipulate that a charter school that uses and  
3 occupies a public school facility or portion of a public school  
4 facility shall be responsible for the full or pro rata share of  
5 the repair and maintenance costs for that facility or portion of  
6 the facility, as the case may be.

7 (f) The [~~panel~~] board shall adopt policies and procedures  
8 necessary to carry out the purposes of this section, including  
9 [~~but not limited to~~]:

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

12 (2) Criteria for the [~~panel~~] board to use in determining  
13 which charter schools to include on the prioritized  
14 list to be submitted to the department; and

15 (3) Procedures for the [~~panel~~] board to notify charter  
16 school applicants that are granted or denied the use  
17 of vacant school facilities.

18 (g) For purposes of this section, "public school" means  
19 any school that falls within the definition of public schools in  
20 section 302A-101, except for charter schools."

21 SECTION 9. Section 302B-4, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "§302B-4 Encouraging the growth of successful charter  
2 schools. Upon the approval of administrative rules, the [~~panel~~]  
3 board may authorize up to three new start-up charter schools for  
4 each existing start-up charter school that has received a  
5 three-year or longer accreditation from the Western Association  
6 of Schools and Colleges or a comparable accreditation authority  
7 as determined by the [~~panel,~~] board, and one new start-up  
8 charter school for each start-up charter school whose charter is  
9 revoked or that voluntarily closes. The total number of  
10 conversion charter schools authorized by the panel shall not  
11 exceed twenty-five."

12           SECTION 10. Section 302B-5, Hawaii Revised Statutes, is  
13 amended by amending subsection (c) to read as follows:

14           "(c) The start-up charter school application process and  
15 schedule shall be determined by the [~~panel,~~] board and shall  
16 provide for and include the following elements:

- 17           (1) The submission of a letter of intent to operate a  
18 start-up charter school;
- 19           (2) The timely transmittal of the application form and  
20 completion guidelines to the interim local school  
21 board;



- 1           (3) The timely submission to the [~~panel~~] board of a  
2           completed application;
- 3           (4) The timely review of the application by the [~~panel~~]  
4           board for completeness, and notification of the  
5           interim local school board if the application is  
6           complete or, if the application is insufficient, a  
7           written statement of the elements of the application  
8           that require completion;
- 9           (5) The timely resubmission of the application;
- 10          (6) Upon receipt of a completed application, the convening  
11          of the [~~panel~~] board by the [~~panel~~] chairperson to  
12          begin review of the application;
- 13          (7) The timely notification of the applicant of any  
14          revisions the [~~panel~~] board requests as necessary for  
15          a recommendation of approval;
- 16          (8) Following the submission of an application, issuance  
17          of a charter or denial of the application by the  
18          [~~panel~~] board by majority vote; provided that if the  
19          [~~panel~~] board does not approve the application and  
20          issue a charter, provisions requiring the [~~panel~~]  
21          board to:





1 (A) Clearly identify in writing its reasons for not  
2 issuing the charter, which may be used as  
3 guidelines for an amended plan; and

4 (B) Allow the interim local school board to revise  
5 its plan in accordance with the [~~panel's~~] board's  
6 guidelines, and resubmit an amended plan within  
7 ten calendar days;

8 (9) A provision for a final date on which a decision must  
9 be made, upon receipt of an amended plan; and

10 (10) A provision that no start-up charter school may begin  
11 operation before obtaining [~~panel~~] board approval of  
12 its charter."

13 SECTION 11. Section 302B-6, Hawaii Revised Statutes, is  
14 amended by amending subsection (c) to read as follows:

15 "(c) The conversion charter school application process and  
16 schedule shall be determined by the [~~panel,~~] board and shall  
17 provide for and include the following elements:

18 (1) The submission of a letter of intent to convert to a  
19 charter school;

20 (2) The timely transmittal of the application form and  
21 completion guidelines to the interim local school  
22 board;



- 1           (3) The timely submission to the [~~panel~~] board of a  
2           completed application; provided that the application  
3           shall include certification and documentation that the  
4           application and the proposed detailed implementation  
5           plan was approved by a majority of the votes cast by  
6           existing administrative, support, teaching personnel,  
7           and parents of students at the proposed conversion  
8           charter school;
- 9           (4) The timely review of the application by the [~~panel~~]  
10          board for completeness, and notification of the  
11          interim local school board if the application is  
12          complete or, if the application is insufficient, a  
13          written statement of the elements of the application  
14          that require completion;
- 15          (5) The timely resubmission of the application;
- 16          (6) Upon receipt of a completed application, the convening  
17          of the [~~panel~~] board by the [~~panel~~] chairperson to  
18          begin review of the application;
- 19          (7) The timely notification of the applicant of any  
20          revisions the [~~panel~~] board may request as necessary  
21          for a recommendation of approval;



1 (8) Following the submission of an application, issuance  
2 of a charter or denial of the application by the  
3 [~~panel~~] board by majority vote; provided that if the  
4 [~~panel~~] board does not approve the application and  
5 issue a charter, provisions requiring the [~~panel~~]  
6 board to:

7 (A) Clearly identify in writing its reasons for not  
8 issuing the charter, which may be used as  
9 guidelines for an amended plan; and

10 (B) Allow the interim local school board to revise  
11 its plan in accordance with the [~~panel's~~] board's  
12 guidelines, and resubmit an amended plan within  
13 ten calendar days;

14 (9) A provision for a final date on which a decision must  
15 be made upon receipt of an amended plan; and

16 (10) A provision that no conversion charter school may  
17 begin operation before obtaining [~~panel~~] board  
18 approval of its charter."

19 SECTION 12. Section 302B-8, Hawaii Revised Statutes, is  
20 amended by amending subsections (a), (b), (c), (d), and (e) to  
21 read as follows:



1           "(a) There is established a charter school administrative  
2 office, which shall be attached to the department for  
3 administrative purposes only. The office shall be administered  
4 by an executive director, who shall be appointed without regard  
5 to chapters 76 and 89 by the [~~panel~~] board based upon the  
6 recommendations of an organization of charter schools operating  
7 within the State or from a list of nominees submitted by the  
8 charter schools. The [~~panel~~] board shall hire the executive  
9 director, who may be contracted for a term of up to four years;  
10 shall offer the executive director a written contract; and may  
11 terminate the executive director's contract only for cause. The  
12 executive director, with the approval of the [~~panel~~,] board, may  
13 hire necessary staff without regard to chapters 76 and 89 to  
14 assist in the administration of the office.

15           (b) The executive director, under the direction of the  
16 [~~panel~~] board and in consultation with the charter schools,  
17 shall be responsible for the internal organization, operation,  
18 and management of the charter school system, including:

19           (1) Preparing and executing the budget and the capital  
20               improvement projects request for the charter schools,  
21               including submission of the all means of finance  
22               budget request that reflects all anticipated



1 expenditures to [~~the panel,~~] the board, the governor,  
2 and the legislature; provided that, in preparing the  
3 budget request with regard to facilities funding, the  
4 executive director shall ensure that, as a budget item  
5 separate from other operating costs, the request  
6 provides:

- 7 (A) Funding for projected enrollment for the next  
8 school year for each charter school;
- 9 (B) A calculation showing the per-pupil funding based  
10 on the department of budget and finance's debt  
11 service appropriation for the department of  
12 education divided by the department of  
13 education's actual enrollment that school year;  
14 and
- 15 (C) That no less than seventy per cent of the amount  
16 appropriated shall be allocated by the office to  
17 start-up charter schools on a per-pupil basis;  
18 provided that the funds remaining shall be  
19 allocated to charter schools with facilities  
20 needs as recommended by the office and approved  
21 by the [~~panel,~~] board;



- 1           (2)   Allocating annual appropriations to the charter  
2                   schools and distribution of federal funds to charter  
3                   schools;
- 4           (3)   Complying with applicable state laws related to the  
5                   administration of the charter schools;
- 6           (4)   Preparing contracts between the charter schools and  
7                   the department for centralized services to be provided  
8                   by the department;
- 9           (5)   Preparing contracts between the charter schools and  
10                  other state agencies for financial or personnel  
11                  services to be provided by the agencies to the charter  
12                  schools;
- 13          (6)   Providing independent analysis and recommendations on  
14                  charter school issues;
- 15          (7)   Representing charter schools and the charter school  
16                  system in communications with the board, the governor,  
17                  and the legislature;
- 18          (8)   Providing advocacy, assistance, and support for the  
19                  development, growth, progress, and success of charter  
20                  schools and the charter school system;
- 21          (9)   Providing guidance and assistance to charter  
22                  applicants and charter schools to enhance the



- 1           completeness and accuracy of information for panel  
2           review;
- 3       (10)   Assisting charter applicants and charter schools in  
4           coordinating their interactions with the [~~panel~~] board  
5           as needed;
- 6       (11)   Assisting the [~~panel~~] board to coordinate with charter  
7           schools in [~~panel~~] board investigations and  
8           evaluations of charter schools;
- 9       (12)   Serving as the conduit to disseminate communications  
10          from [~~the panel~~], the board[,] and the department to  
11          all charter schools;
- 12       (13)   Determining charter school system needs and  
13          communicating those needs to [~~the panel~~], the board[,]  
14          and the department;
- 15       (14)   Establishing a dispute resolution and mediation  
16          process; and
- 17       (15)   Upon request by one or more charter schools, assisting  
18          in the negotiation of a collective bargaining  
19          agreement with the exclusive representative of its  
20          employees.
- 21       (c)   The executive director shall be evaluated annually by  
22   the [~~panel~~] board. The annual evaluation shall be conducted



1 sufficiently in advance of the end of a term to provide the  
2 executive director the opportunity to respond to concerns and  
3 improve performance.

4 (d) The office shall withhold funds for its operational  
5 expenses, including the salaries of the executive director and  
6 staff, from the annual charter school general fund  
7 appropriation. The total amount of operational expenses  
8 withheld:

- 9 (1) Shall not exceed two per cent of the annual charter  
10 school general fund allocation, which shall not  
11 include any funds carried over from previous years;  
12 (2) Shall not include the amount of funds withheld under  
13 subsections (g) and (h); and  
14 (3) Shall be determined annually by the [~~panel~~] board.

15 The salaries of the executive director and staff shall be set by  
16 the [~~panel~~] board based upon the recommendations of charter  
17 schools within the State and in accordance with the requirements  
18 of this subsection.

19 (e) The office shall report annually to the [~~review panel~~]  
20 board individual and aggregate expenditures of charter schools,  
21 clearly distinguishing between expenditures for operational  
22 purposes and for instructional purposes. The office shall adopt





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

8 SECTION 13. Section 302B-12, Hawaii Revised Statutes, is  
9 amended by amending subsections (e) and (f) to read as follows:

10 "(e) To enable charter schools to access state funding  
11 prior to the start of each school year, foster their fiscal  
12 planning, enhance their accountability, and avoid over-  
13 allocating general funds to charter schools based on self-  
14 reported enrollment projections, the office shall:

15 (1) Provide sixty 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 thirty per cent of a charter  
22 school's per-pupil allocation no later than December 1



1 of each year, based on the October 15 student  
2 enrollment, as reviewed and verified by the office,  
3 only to schools in compliance with the office  
4 financial reporting requirements; and

5 (3) Retain no more than the balance of the remaining ten  
6 per cent of a charter school's per-pupil allocation,  
7 as a contingency balance to ensure fiscal  
8 accountability and compliance, no later than June 30  
9 of each year;

10 provided that the [~~panel~~] board may make adjustments in  
11 allocations based on noncompliance with board policies made in  
12 the board's capacity as the state education agency, department  
13 directives made in the department's capacity as the state  
14 education agency, the office's administrative procedures, and  
15 board-approved accountability requirements.

16 (f) Any check transferring a per-pupil allocation from the  
17 office to a charter school under this section shall be co-signed  
18 by the executive director and an authorized agent of the  
19 [~~charter school review panel.~~] board."

20 SECTION 14. Section 302B-14, Hawaii Revised Statutes, is  
21 amended by substituting the word "board" wherever the word  
22 "panel" appears, as the context requires.



1 SECTION 15. Section 302B-3, Hawaii Revised Statutes, is  
2 repealed.

3 ~~["§302B-3 Charter school review panel; establishment;~~  
4 ~~powers and duties. (a) There is established the charter school~~  
5 ~~review panel, that shall be placed within the department for~~  
6 ~~administrative purposes only. The panel shall be accountable to~~  
7 ~~the charter schools and the board. Notwithstanding section~~  
8 ~~302B-9 and any other law to the contrary, the panel shall be~~  
9 ~~subject to chapter 92.~~

10 ~~(b) The panel shall consist of twelve members, and shall~~  
11 ~~include:~~

12 ~~(1) Two licensed teachers regularly engaged in teaching,~~  
13 ~~provided that one teacher is employed at a start up~~  
14 ~~charter school, and one teacher is employed at a~~  
15 ~~conversion charter school;~~

16 ~~(2) Two educational officers; provided that one~~  
17 ~~educational officer is employed at a start up charter~~  
18 ~~school, and one educational officer is employed at a~~  
19 ~~conversion charter school;~~

20 ~~(3) One member or former member of a charter school local~~  
21 ~~school board;~~



- 1       ~~(4) The chair of the board of education or the chair's~~
- 2           ~~designee;~~
- 3       ~~(5) A representative of Hawaiian culture focused charter~~
- 4           ~~schools;~~
- 5       ~~(6) Two representatives of the University of Hawaii who~~
- 6           ~~are not affiliated with charter schools;~~
- 7       ~~(7) One member with a background in business or accounting~~
- 8           ~~who is not affiliated with charter schools;~~
- 9       ~~(8) One member with a background in the building trades or~~
- 10           ~~real estate who is not affiliated with charter~~
- 11           ~~schools; and~~
- 12       ~~(9) A representative from the Hawaii Association of~~
- 13           ~~Independent Schools;~~

14 ~~provided that the initial appointments for representatives in~~  
15 ~~paragraphs (7) to (9) shall be made by September 1, 2007. From~~  
16 ~~June 1, 2007, until such time that the panel has twelve members,~~  
17 ~~five members of the panel shall constitute a quorum to conduct~~  
18 ~~business and a concurrence of at least five members shall be~~  
19 ~~necessary to make any action of the panel valid; provided that,~~  
20 ~~upon filling the twelve seats as required under this subsection,~~  
21 ~~a majority of the panel shall constitute a quorum to conduct~~  
22 ~~business, and the concurrence of a majority of all the members~~



1 ~~to which the panel is entitled shall be necessary to make any~~  
2 ~~action of the panel valid.~~

3 ~~(c) The board shall appoint the remaining members of the~~  
4 ~~panel other than the chair of the board.~~

5 ~~(d) Appointed panel members shall serve not more than~~  
6 ~~three consecutive three year terms, with each term beginning on~~  
7 ~~July 1, provided that the initial terms of the appointed members~~  
8 ~~that commence after June 30, 2006, shall be staggered as~~  
9 ~~follows:~~

10 ~~(1) Four members to serve three year terms;~~

11 ~~(2) Four members to serve two year terms; and~~

12 ~~(3) Three members to serve a one year term.~~

13 ~~(e) Notwithstanding the terms of members, the board may~~  
14 ~~add panel members at any time and replace panel members at any~~  
15 ~~time when their positions become vacant through resignation,~~  
16 ~~through non participation, upon request of a majority of panel~~  
17 ~~members, or upon termination by the board for cause.~~

18 ~~(f) Panel members shall receive no compensation. When~~  
19 ~~panel duties require that a panel member take leave of the panel~~  
20 ~~member's duties as a state employee, the appropriate state~~  
21 ~~department shall allow the panel member to be placed on~~  
22 ~~administrative leave with pay and shall provide substitutes,~~



1 ~~when necessary, to perform that panel member's duties. Panel~~  
2 ~~members shall be reimbursed for necessary travel expenses~~  
3 ~~incurred in the conduct of official panel business.~~

4 ~~(g) The panel shall establish operating procedures that~~  
5 ~~shall include conflict of interest provisions for any member~~  
6 ~~whose school of employment or local school board membership is~~  
7 ~~before the panel.~~

8 ~~(h) The chair of the panel shall be designated by the~~  
9 ~~members of the panel for each school year beginning July 1 and~~  
10 ~~whenever there is a vacancy. If the panel does not designate~~  
11 ~~its chair for the next school year by July 1, the board shall~~  
12 ~~designate the panel chair. When the panel chair is vacant, the~~  
13 ~~board shall designate an interim chair to serve until the panel~~  
14 ~~designates its chair.~~

15 ~~(i) The powers and duties of the panel shall be to:~~

16 ~~(1) Appoint and evaluate the executive director and~~  
17 ~~approve staff and salary levels for the charter school~~  
18 ~~administrative office;~~

19 ~~(2) Review, approve, or deny charter applications for new~~  
20 ~~charter schools in accordance with section 302B-5 for~~  
21 ~~the issuance of new charters; provided that applicants~~



- 1           ~~that are denied a charter may appeal to the board for~~  
2           ~~a final decision pursuant to section 302B-3.5;~~
- 3           ~~(3) Review, approve, or deny significant amendments to~~  
4           ~~detailed implementation plans to maximize the school's~~  
5           ~~financial and academic success, long term~~  
6           ~~organizational viability, and accountability. Charter~~  
7           ~~schools that are denied a significant amendment to~~  
8           ~~their detailed implementation plan may appeal to the~~  
9           ~~board for a final decision pursuant to section 302B-~~  
10           ~~3.5;~~
- 11           ~~(4) Pursuant to section 302B 3.6, compile and submit~~  
12           ~~prioritized lists of charter schools to the department~~  
13           ~~and enter into necessary agreements with the~~  
14           ~~department to authorize charter schools to use and~~  
15           ~~occupy vacant public school facilities or portions of~~  
16           ~~school facilities;~~
- 17           ~~(5) Adopt reporting requirements for charter schools;~~
- 18           ~~(6) Review annual self evaluation reports from charter~~  
19           ~~schools and take appropriate action;~~
- 20           ~~(7) Adopt a clear process and rigorous organizational and~~  
21           ~~educational criteria, including student achievement as~~



- 1           ~~a significant factor, for the authorization and~~  
2           ~~reauthorization of school charters;~~
- 3           ~~(8) Evaluate each school charter, for the purpose of~~  
4           ~~determining reauthorization, no later than four years~~  
5           ~~following the initial issue of a charter and every six~~  
6           ~~years thereafter;~~
- 7           ~~(9) Evaluate any aspect of a charter school that the panel~~  
8           ~~may have concerns with and take appropriate action,~~  
9           ~~which may include probation or revocation;~~
- 10          ~~(10) Periodically adopt improvements in the panel's~~  
11          ~~monitoring and oversight of charter schools;~~
- 12          ~~(11) Periodically adopt improvements in the office's~~  
13          ~~support of charter schools and management of the~~  
14          ~~charter school system;~~
- 15          ~~(12) Review, modify, and approve charter schools' all means~~  
16          ~~of finance budget, based upon criteria and an approval~~  
17          ~~process established by the panel;~~
- 18          ~~(13) Survey all charter school facilities prior to, and in~~  
19          ~~preparation for, determining recommendations to~~  
20          ~~allocate non per pupil facilities funds to charter~~  
21          ~~schools with facilities needs. The survey shall~~  
22          ~~include, at minimum, for each charter school facility:~~





- 1           ~~(A) The current status of the facility;~~
- 2           ~~(B) Facilities costs, including all rents, leases,~~
- 3                     ~~purchases, and repair and maintenance for lands~~
- 4                     ~~and buildings;~~
- 5           ~~(C) A prioritized list of facilities needs;~~
- 6           ~~(D) Any capital improvement projects underway or~~
- 7                     ~~scheduled; and~~
- 8           ~~(E) Whether the facility is a conversion or start-up~~
- 9                     ~~charter school, and current and projected~~
- 10                    ~~enrollment; and~~
- 11       ~~(14) Evaluate and investigate charter schools when concerns~~
- 12                     ~~arise that necessitate the resolution or assistance~~
- 13                     ~~with the resolution of legal, fiscal, health, safety,~~
- 14                     ~~and other serious issues.~~
- 15       ~~(j) In the case that the panel decides not to issue a new~~
- 16       ~~charter, or to approve significant amendments to detailed~~
- 17       ~~implementation plans, the board may adopt rules for an appeals~~
- 18       ~~process pursuant to section 302B-3.5.~~
- 19       ~~(k) The office shall provide for the staff support and~~
- 20       ~~expenses of the panel." ]~~



1 SECTION 16. All rights, powers, functions, and duties of  
2 the State's charter schools are transferred to the board of  
3 education.

4 All officers and employees whose functions are transferred  
5 by this Act shall be transferred with their functions and shall  
6 continue to perform their regular duties upon their transfer,  
7 subject to the state personnel laws and this Act.

8 No officer or employee of the State having tenure shall  
9 suffer any loss of salary, seniority, prior service credit,  
10 vacation, sick leave, or other employee benefit or privilege as  
11 a consequence of this Act, and such officer or employee may be  
12 transferred or appointed to a civil service position without the  
13 necessity of examination; provided that the officer or employee  
14 possesses the minimum qualifications for the position to which  
15 transferred or appointed; and provided that subsequent changes  
16 in status may be made pursuant to applicable civil service and  
17 compensation laws.

18 An officer or employee of the State who does not have  
19 tenure and who may be transferred or appointed to a civil  
20 service position as a consequence of this Act shall become a  
21 civil service employee without the loss of salary, seniority,  
22 prior service credit, vacation, sick leave, or other employee



1 benefits or privileges and without the necessity of examination;  
2 provided that such officer or employee possesses the minimum  
3 qualifications for the position to which transferred or  
4 appointed.

5 If an office or position held by an officer or employee  
6 having tenure is abolished, the officer or employee shall not  
7 thereby be separated from public employment, but shall remain in  
8 the employment of the State with the same pay and classification  
9 and shall be transferred to some other office or position for  
10 which the officer or employee is eligible under the personnel  
11 laws of the State as determined by the head of the department or  
12 the governor.

13 SECTION 17. All appropriations, records, equipment,  
14 machines, files, supplies, contracts, books, papers, documents,  
15 maps, and other personal property heretofore made, used,  
16 acquired, or held by the State's charter schools relating to the  
17 functions transferred to the board of education shall be  
18 transferred with the functions to which they relate.

19 SECTION 18. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21



1 SECTION 19. This Act shall take effect upon its approval.

2

INTRODUCED BY: Gilbert Kald'e

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**Report Title:**

Charter Schools; Board of Education

**Description:**

Eliminates the charter school review panel and transfers all of its duties, authority, and property to the board of education.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

