

S . B. NO. 2881

JAN 27 2016

A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

1 SECTION 1. Since the passage of Act 87 in 2005, the
2 department of human resources development has been processing
3 and paying for all of the charter schools workers' compensation
4 claims from HRD 102 (work force attraction, selection,
5 classification, and effectiveness budget program). Prior to Act
6 87, the department of education was responsible for
7 administering and making payments for charter schools workers'
8 compensation claims. While the charter schools have been paying
9 the department of human resources development a fee of no more
10 than 0.07 per cent of the EDN 600 (charter schools budget
11 program) general fund appropriation for charter schools, as
12 provided for in section 302D-27, Hawaii Revised Statutes, there
13 is no statutory authority under which the department of human
14 resources development can be reimbursed to replenish HRD 102 for
15 payments made for charter schools workers' compensation claims
16 expenses. The 0.07 per cent fee has not been increased since
17 the passage of Act 87 over ten years ago, despite the several
18 across-the-board and step movement salary increases that the

1 department of human resources development has had to pay its
2 employees over those years, including those who administer the
3 charter schools workers' compensation claims.

4 Between fiscal years 2010 and 2015, the department of human
5 resources development paid a total of \$1,998,800 for the charter
6 schools workers' compensation claims – an average of \$333,133
7 per fiscal year. There was no reimbursement to the department
8 of human resources development for the \$1,998,800 in
9 expenditures paid. In that same period, charter schools
10 employees filed an average of twenty-eight new claims per year,
11 with a high of forty-eight in fiscal year 2014-2015.

12 Due in part to the charter schools workers' compensation
13 liabilities, the department of human resources development was
14 forced to obtain from the 2013 legislature an increase in HRD
15 102 appropriations in the amounts of \$457,000 for fiscal year
16 2013-2014 and \$545,000 for fiscal year 2014-2015. The
17 legislature believes that these workers' compensation costs
18 should be more properly borne by the charter schools, over which
19 the department of human resources development has no
20 administrative oversight or control. In that regard, the
21 legislature finds that the charter schools should be authorized
22 to administer and pay their own workers' compensation claims.

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1 The purposes of this Act are to require the charter schools
2 to (1) administer and pay the charter schools workers'
3 compensation claims, and (2) secure the necessary funding to
4 support payment for their workers' compensation liabilities
5 under one of the several options allowed by the Hawaii workers'
6 compensation law, including self-insurance.

7 SECTION 2. Section 302D-26, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) The State shall afford administrative, support, and
10 instructional employees in charter schools full participation in
11 the State's systems for retirement, [~~workers' compensation,~~]
12 unemployment insurance, temporary disability insurance, and
13 health benefits in accordance with the qualification
14 requirements for each."

15 SECTION 3. Section 302D-27, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~[+]§302D-27[+] Administration of workers' compensation.~~
18 ~~[The department of human resources development shall administer~~
19 ~~workers' compensation claims for employees of charter schools,~~
20 ~~who shall be covered by the same self-insured workers'~~
21 ~~compensation system as other public employees. The department~~
22 ~~of human resources development shall process, investigate, and~~
23 ~~make payments on claims; provided that:~~

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1 ~~(1) Charter schools shall compile the preliminary claim~~
2 ~~form and forward it to the department of human~~
3 ~~resources development; and~~

4 ~~(2) The department of human resources development shall~~
5 ~~receive no more than 0.07 per cent of the EDN 600~~
6 ~~appropriation to process these workers' compensation~~
7 ~~claims.] The charter schools shall secure payment for~~
8 ~~their workers' compensation liabilities to their~~
9 ~~employees pursuant to section 386-121."~~

10 SECTION 4. Section 386-121, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) Employers, except the State, any county or political
13 subdivision of the State, or other public entity within the
14 State~~[7]~~ that is not a public charter school, shall secure
15 compensation to their employees in one of the following ways:

16 (1) By insuring and keeping insured the payment of
17 compensation with any stock, mutual, reciprocal, or
18 other insurer authorized to transact the business of
19 workers' compensation insurance in the State;

20 (2) By depositing and maintaining with the state director
21 of finance security satisfactory to the director of
22 labor and industrial relations securing the payment by

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1 the employer of compensation according to the terms of
2 this chapter;

3 (3) Upon furnishing satisfactory proof to the director of
4 the employer's solvency and financial ability to pay
5 the compensation and benefits herein provided, no
6 insurance or security shall be required, and the
7 employer shall make payments directly to the
8 employer's employees, as they may become entitled to
9 receive the same under the terms and conditions of
10 this chapter;

11 (4) An employer desiring to maintain security for payment
12 of compensation under this section shall file an
13 application with the director on a form provided for
14 this purpose together with the employer's most current
15 audited annual financial statement;

16 (5) Where an applicant for self-insurance is a subsidiary
17 and the subsidiary cannot submit an independent
18 current audited annual financial statement, an
19 indemnity agreement approved as to form and content by
20 the director shall be executed by the parent
21 corporation of the subsidiary and submitted with its
22 application;

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1 (6) Each self-insurance authorization shall be effective
2 from the date of issuance until June 30 of each
3 calendar year;

4 (7) A notice of intention to cancel self-insurance shall
5 be submitted in writing to the director within at
6 least thirty days prior to the effective date of
7 cancellation;

8 (8) A self-insurance authorization may be revoked by the
9 director for good cause shown upon notification in
10 writing to the self-insurer;

11 (9) By membership in a workers' compensation self-
12 insurance group with a valid certificate of approval
13 under section 386-194; or

14 (10) By membership in a workers' compensation group insured
15 by a captive insurer under chapter 431, article 19.

16 Any person who wilfully misrepresents any fact in order to
17 obtain the benefits of paragraph (3) shall be guilty of a
18 misdemeanor."

19 SECTION 5. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

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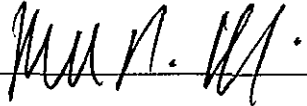
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1 SECTION 6. This Act, upon its approval, shall take effect
2 on July 1, 2016.

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INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'M.A. W.', is written over a horizontal line.

5

BY REQUEST

6

Report Title:

Charter Schools; Workers' Compensation

Description:

Requires charter schools to administer and pay charter schools workers' compensation claims, and secure necessary funding to support payment for charter schools workers' compensation liabilities under one of the several options allowed by the Hawaii workers' compensation law, including self-insurance. Effective July 1, 2016.

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

JUSTIFICATION SHEET

DEPARTMENT: HUMAN RESOURCES DEVELOPMENT

TITLE: A BILL FOR AN ACT RELATING TO CHARTER SCHOOLS.

PURPOSE: To require charter schools to administer and pay their own workers' compensation claims and secure necessary funding to support payment for their workers' compensation liabilities under one of the several options allowed by the Hawaii workers' compensation law, including self-insurance.

MEANS: Amend sections 302D-26(b), 302D-27, and 386-121(a), Hawaii Revised Statutes.

JUSTIFICATION: Since the passage of Act 87 in 2005, the Department of Human Resources Development (DHRD) has been processing and paying for all of the charter schools workers' compensation claims from HRD 102 (Work Force Attraction, Selection, Classification, and Effectiveness). While DHRD receives a fee of no more than 0.07 per cent of the EDN 600 (Charter Schools) general fund appropriation for charter schools, as provided for in Section 302D-27, HRS, there is no statutory authority under which DHRD can be reimbursed to replenish HRD 102 for payments made for charter schools workers' compensation claims expenses. Between fiscal year 2009-2010 and fiscal year 2014-2015, DHRD paid \$1,998,800 for the charter schools claims - an average of \$333,133 per fiscal year. Due in part to the charter schools' liabilities, DHRD was forced to request from the 2013 legislature an increase in HRD 102 appropriations in the amounts of \$457,000 for fiscal year 2013-2014 and \$545,000 for fiscal year 2014-2015.

This bill will authorize the charter schools - over which DHRD has no administrative

oversight or control – to administer and pay their own workers' compensation claims.

Impact on the public: None.

Impact on the department and other agencies:
This bill will make more HRD 102 funds available for the payment of the workers' compensation liabilities of the State Executive Branch departments and agencies, pursuant to section 26-5, HRS.

This bill would also require the charter schools to secure payment for their workers' compensation liabilities under one of the several options allowed by section 386-121, HRS.

GENERAL FUND: The bill will reduce payments from HRD 102 in the amount of the charter schools' workers' compensation liabilities. It would also require the charter schools to expend EDN 600 funds for their workers' compensation liabilities.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: Charter schools.

EFFECTIVE DATE: July 1, 2016.