

## ACT 62

S.B. NO. 1501

A Bill for an Act Relating to Education.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The legislature finds that as long as a public school complies with the requirements that it be free to all attending students, that its admissions policies be nondiscriminatory, and that it comply with statewide performance standards, a school should otherwise be free from statutory and regulatory requirements that tend to inhibit or restrict a school's ability to make decisions relating to the provision of educational services to the students attending the school.

To nurture the ideal of more autonomous and flexible decision-making at the school level, the legislature supports the concept of new century charter schools. The legislature finds that this concept defines a new approach to education that is free of bureaucratic red tape and accommodating of the individual needs of students to allow the State to dramatically improve its educational standards for the twenty-first century. Both existing public schools and new schools may be established as new century charter schools, and these schools will allow educators to better tailor the curriculum to enhance the learning of the students.

The purpose of this Act is to increase the flexibility and autonomy at the school level by allowing existing public schools and new schools to be designated as new century charter schools. These new century charter schools shall have a local school board as a governing body, and shall operate independent educational programs from those provided by the department of education statewide.

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

“PART . NEW CENTURY CHARTER SCHOOLS

**§302A-A New century charter schools.** All schools previously designated as student-centered schools shall be designated as new century charter schools.

**§302A-B New century charter schools; establishment.** (a) Up to a total of twenty-five schools may be established as new century charter schools. These new century charter schools may be established by:

- (1) The creation of a new school pursuant to section 302A-C;
- (2) An existing public school pursuant to subsection (b); or
- (3) The creation of a new school, comprising programs or sections of existing public school populations and using existing public school facilities pursuant to section 302A-C.

(b) Any public school or schools may form a new century charter school by establishing a local school board as its governing body composed of, at a minimum, one representative from each of the following participant groups:

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

(c) The local school board shall formulate and develop a detailed implementation plan, which shall include but not be limited to the following:

- (1) A description of the administrative and educational framework, and which provides for the basic protection of employees and their reasonable academic freedoms;
- (2) A plan for identifying, recruiting, and selecting students to make certain that student participation is not exclusive, elitist, or segregationist;
- (3) A plan for assessing student performance that focuses upon the established state educational performance standards, has at least equivalent rigor of standards and technical quality, as well as any other specific student outcomes to be achieved, and making this plan accountable to the general public;
- (4) The curriculum, instructional framework, and assessment mechanisms to be used to achieve student outcomes;
- (5) A plan to hold the school, its faculty, and staff (collectively and individually) accountable in at least an equivalent manner as are other public schools throughout the State;
- (6) A governance structure of the school;
- (7) A facilities management plan that is consistent with the state facilities plan; provided that if the facilities management plan includes use of existing school facilities, the new century charter school shall receive authorization from the administrator responsible for the facilities; provided further that the final determination of use shall be under the discretion of the board; and
- (8) Annual financial and program audits.

The detailed implementation plan shall be approved by sixty per cent of the school’s existing administrative, support, and teaching personnel, and parents; provided that the school personnel may request their bargaining unit representative to certify and conduct the elections for their respective bargaining units. Once

approved, the detailed implementation plan shall be submitted to the board for review.

(d) The board shall have thirty days to review the completed implementation plan for the proposed new century charter school to assure its compliance with subsection (c) and section 302A-D. Unless the board finds that the plan conflicts with subsection (c) or section 302A-D, the governor, the superintendent, and the board shall issue a charter designating the proposed new century charter school as a new century charter school within thirty days, and the proposed implementation plan shall be converted to a written performance contract between the school and the board. If, within thirty days after the submission of the plan, the board finds a conflict with subsection (c) or section 302A-D, it shall notify the local school board of the finding in writing to enable the local school board to appropriately amend the plan to resolve the conflict.

(e) The new century charter schools shall not charge tuition. The State shall afford the local school board of any new century charter school the same protections as the State affords to the board.

**§302A-C New century charter schools; request for establishment and designation.** (a) As an alternative to section 302A-B(b), any community or any program within an existing school may submit a letter of intent to the board for the establishment of a new century charter school.

(b) The authors of the letter of intent shall then develop a detailed implementation plan, pursuant to section 302A-B(c); provided that the plan shall also include the appointment of an interim school board, address issues of personnel management, and align any funding for the design and construction costs of building or renovating the new century charter school with the state facilities plan. The superintendent shall provide support and guidance to the community in formulating a detailed implementation plan which is compliant with sections 302A-B(c) and 302A-D. Once completed, the detailed implementation plan shall be submitted to the board for review.

(c) The board shall have sixty days to review the completed implementation plan for the proposed new century charter school to ensure its compliance with sections 302A-B(c) and 302A-D. Unless the board finds that the plan conflicts with section 302A-B(c) or 302A-D, the governor, the superintendent, and the board shall issue a charter designating the proposed new century charter school as a new century charter school within sixty days, and the proposed implementation plan shall be converted into a written performance contract between the school and the board. The interim local school board shall establish the local school board pursuant to section 302A-B(b) no later than ninety days after the governor, the superintendent, and the board have designated the school a new century charter school by charter. If, within sixty days after the submission of the plan, the board finds a conflict with section 302A-B(c) or 302A-D, it shall notify the authors of the letter of intent of the finding in writing to enable the authors of the letter of intent to appropriately amend the plan to resolve the conflict.

**§302A-D New century charter schools; exemptions.** Schools designated as new century charter schools shall be exempt from all applicable state laws, except those regarding:

- (1) Collective bargaining under chapter 89; provided that:
  - (A) The exclusive representatives defined in chapter 89 may enter into agreements that contain cost and noncost items to facilitate decentralized decision-making;

- (B) The exclusive representatives and the local school board of the new century charter school may enter into agreements that contain cost and noncost items;
  - (C) The agreements shall be funded from the current allocation or other sources of revenue received by the new century charter school; and
  - (D) These agreements may differ from the master contracts;
- (2) Discriminatory practices under section 378-2; and
  - (3) Health and safety requirements.

New century charter schools shall be exempt from the state procurement code, chapter 103D, but shall develop internal policies and procedures for the procurement of goods, services, and construction, consistent with the goals of public accountability and public procurement practices. However, where possible, the new century charter school is encouraged to use the provisions of chapter 103D; provided that the use of one or more provisions of chapter 103D shall not constitute a waiver of the exemption of chapter 103D and shall not subject the new century charter school to any other provision of chapter 103D. New century charter schools shall account for funds expended for the procurement of goods and services, and this accounting shall be available to the public.

**§302A-E New century charter schools; funding.** (a) New century charter schools shall receive an allocation of state general funds based upon the operational and educational funding requirements of the schools; provided that:

- (1) Beginning in fiscal year 1999-2000, and every year thereafter, the auditor shall determine the appropriate allocation based on the total department general fund appropriation and per pupil expenditure for the previous year; provided that in setting the allocation, the auditor shall explicitly consider the advice of the superintendent and indicate in the final determination the manner in which that advice was accommodated;
- (2) Small schools shall be given a state subsidy or small school allotment to augment the per pupil allocation given; provided that if additional federal grant moneys are received, the auditor shall determine the appropriate portion of the federal grant moneys to be used to offset the small school allotment; provided further that the federal grant moneys shall not include federal impact aid;
- (3) The auditor shall take into consideration any changes to the department's budget by the legislature and any applicable collective bargaining negotiated amounts; and
- (4) The allocation for self-contained special education students and for other special education students shall be adjusted appropriately to reflect the additional expenses incurred for students in these programs; provided that any increment to the per pupil allocation made in this paragraph shall not exceed that available to other public schools.

(b) All federal and other financial support for new century charter schools shall be no less than all other public schools; provided that if administrative services are provided to the school by the department, the school shall reimburse the department for the actual costs of the administrative services in an amount that does not exceed six and one-half per cent of the school's allocation.

Any new century charter school shall be eligible to receive any supplementary financial grant or award for which any other public school may submit a proposal, or any supplemental federal grants limited to new century charter schools; provided that if department administrative services, including funds management, budgetary, fiscal accounting, or other related services, are provided with respect to

these supplementary grants, the school shall reimburse the department for the actual costs of the administrative services in an amount that does not exceed six and one-half per cent of the supplementary grant for which the services are used.

All additional funds that are generated by the local school board not from a supplementary grant shall be separate and apart from allotted funds may be expended at the discretion of the local school board.

(c) If, at any time, the new century charter school dissolves or is denied continuation, the State of Hawaii shall have first right, at no cost to the State, to all the assets and facilities of the new century charter school.

**§302A-F New century charter schools; self-evaluation.** (a) Every new century charter school shall conduct self-evaluations annually. The self-evaluation process shall include but not be limited to:

- (1) The identification and adoption of benchmarks to measure and evaluate administrative and instructional programs as provided in this section;
- (2) The identification of any administrative and legal barriers to meeting the benchmarks, as adopted, and recommendations for improvements and modifications to address the barriers; and
- (3) The impact of any changes made upon the students of the new century charter school.

Every new century charter school shall submit a report of its self-evaluation to the board within sixty days after the completion of the school year; provided that the department shall have thirty days to respond to any recommendation regarding improvements and modifications that would directly impact the department.

(b) The board shall initiate an independent evaluation of each new century charter school four years after its establishment and every four years thereafter to assure compliance with statewide student performance standards and fiscal accountability; provided that each new century charter school established prior to July 1, 1998, shall be evaluated four years after July 1, 1998, and every four years thereafter. Upon a determination by the board that student achievement within a new century charter school does not meet the student performance standards, or that the new century charter school is not fiscally responsible, a new century charter school shall be placed on probationary status and shall have two years to bring student performance into compliance with statewide standards and improve the school's fiscal accountability. If a new century charter school fails to meet its probationary requirements, or fails to comply with any of the requirements of this section, the board, upon a two-thirds majority vote, may then deny the continuation of the new century charter school.

**§302A-G New century charter schools; administrative supervision.** Whenever any new century charter school is established under section 302A-B or 302A-C, the following provisions shall apply except as otherwise specifically provided by this chapter:

- (1) Following consultation with the new century charter school, the board shall represent the new century charter school in communications with the governor and with the legislature;
- (2) The financial requirements for state funds of the new century charter school shall be submitted through the board and included in the budget for the department;
- (3) The approval of all policies and rules adopted by the new century charter school shall be preceded by an open public meeting and shall not be subject to chapter 91;
- (4) The employment, appointment, promotion, transfer, demotion, discharge, and job descriptions of all officers and employees of or under

the jurisdiction of the new century charter school shall be determined by the new century charter school and applicable personnel laws and collective bargaining agreements;

- (5) Except as set forth in this section, the board or the superintendent of education shall not have the power to supervise or control the new century charter school in the exercise of its functions, duties, and powers; and
- (6) Local school boards may enter into an annual business contract for centralized services to be provided by the department prior to the beginning of each school year.

**§302A-H New century charter schools; mandate to support.** The department, together with key representatives of the major divisions in the department, representatives from the unions, as well as individuals from the new century charter schools shall collaborate together on a system of technical assistance that will provide a baseline for success of each new century charter school. In addition, the department, through the board and its superintendent, shall provide any other information and technical assistance upon request necessary to support the establishment and expansion of new century charter schools.”

SECTION 3. Section 302A-101, Hawaii Revised Statutes, is amended as follows:

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

““New century charter schools” means the implementation of alternative frameworks with regard to curriculum, facilities management, instructional approach, length of the school day, week, or year, and personnel management, formed under section 302A-B or 302A-C.”

2. By repealing the definition of “student-centered schools”:

[““Student-centered schools” means the implementation of alternative frameworks with regard to curriculum; facilities management; instructional approach; length of the school day, week, or year; and personnel management; and may include two or more schools acting jointly.”]

SECTION 4. Section 302A-1114, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§302A-1114]]~~ **Power of appointment, removal.** The department, from time to time, may appoint and remove such teachers, educational officers, and other personnel as may be necessary for carrying out the purposes of sections 302A-201, 302A-301, 302A-401 to 302A-410, 302A-601, 302A-1001 to 302A-1004, 302A-1101 to [302A-1123,] 302A-1122, 302A-1301 to 302A-1305, 302A-1401 to 302A-1403, and 302A-1501 to 302A-1506, and regulate their duties, powers, and responsibilities, when not otherwise provided by law.”

SECTION 5. Section 302A-1302, Hawaii Revised Statutes, is amended to read as follows:

“**§302A-1302 School-based budget flexibility.** Beginning with the 1995-1997 fiscal biennium, the department shall implement school-based budget flexibility for schools, complexes, and learning support centers. The flexibility shall be limited to the school-based budgeting program EDN 100 of the department for all schools except [student-centered schools] new century charter schools defined in section 302A-101; provided that beginning in fiscal year 1998-1999, and every year

thereafter, the department shall distribute the full appropriation due to a [student-centered] new century charter school pursuant to section [302A-1123(d)] 302A-E directly to the [student-centered] new century charter school.’’

SECTION 6. Section 302A-1123, Hawaii Revised Statutes, is repealed.

SECTION 7. Section 302A-1123.5, Hawaii Revised Statutes, is repealed.

SECTION 8. Section 302A-1123.6, Hawaii Revised Statutes, is repealed.

SECTION 9. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute the appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 10. Statutory material to be repealed is bracketed.<sup>1</sup> New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

(Approved May 27, 1999.)

**Note**

1. Edited pursuant to HRS §23G-16.5.