

ACT 209

H.B. NO. 946

A Bill for an Act Relating to Education.

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

SECTION 1. Section 302A-1182, Hawaii Revised Statutes, is amended to read as follows:

“§302A-1182 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-1183;~~ subsection (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-1183;~~ subsection (c)].

(b) Any public school or schools may submit a letter of intent to the board to form a new century charter school [by establishing a], establish a local school board as its governing body, and develop a detailed implementation plan pursuant to subsection (d); provided that:

- (1) The local school board as its governing body shall be composed of, at a minimum, one representative from each of the following participant groups:

[~~(4)~~] (A) Principals;

- [(2)] (B) Instructional staff members selected by the school instructional staff;
- [(3)] (C) Support staff selected by the support staff of the school;
- [(4)] (D) Parents of students attending the school selected by the parents of the school;
- [(5)] (E) Student body representatives selected by the students of the school; and
- [(6)] (F) The community at-large[-];¹
and

[(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 a comprehensive assessment and accountability system that meets or exceeds the established state educational content and performance standards 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) A system of financial accountability that includes annual financial and program audits.]
- (2) 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 sixty days to review the completed implementation plan for the proposed new century charter school to assure its compliance with subsection (c) and section 302A-1184. Unless the board finds that the plan conflicts with subsection (c) or section 302A-1184, 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-1184, 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.]

(c) As an alternative to subsection (b), any community, group of teachers, group of teachers and administrators, entity recognized as a nonprofit organization

under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or any program within an existing school may submit a letter of intent to the board to form a new century charter school, establish a local school board as its governing body, and develop a detailed implementation plan pursuant to subsection (d).

(d) The local school board shall, with the support and guidance of the superintendent, formulate and develop a detailed implementation plan that meets the requirements of this subsection and of section 302A-1184. The plan shall include but not be limited to the following:

- (1) A description of employee rights and management issues and a framework for addressing those issues that protect the rights of employees;
- (2) A plan for identifying, recruiting, and selecting students that is not exclusive, elitist, or segregationist;
- (3) The curriculum and instructional framework to be used to achieve student outcomes, including an assessment plan;
- (4) A comprehensive plan for the assessment of student, administrative support, and teaching personnel performance, that:
 - (A) Recognizes the interests of the general public;
 - (B) Incorporates or exceeds state educational content and performance standards;
 - (C) Includes a system of faculty and staff accountability that holds faculty and staff both individually and collectively accountable for their performance, and that is at least equivalent to the average system of accountability in public schools throughout the State; and
 - (D) Provides for program audits and annual financial audits.
- (5) The governance structure of the school;
- (6) A plan for any necessary design, construction, renovation, and management of facilities 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 fall within the board's discretion.

(e) The detailed implementation plan shall be submitted to the new century charter school review panel, which shall be composed of seven members as follows:

- (1) Four of the members shall be board of education members or their designees appointed by the chairperson of the board of education;
- (2) Two of the members shall be members of the new century charter school community approved by the chairperson of the board of education from a list submitted by existing new century charter schools; and
- (3) One member shall be the superintendent of education or the superintendent's designee.

Panel review procedures shall be as provided in this section. The board may adopt rules pursuant to chapter 91 to further guide the panel's review process.

(f) The new century charter school review panel shall have sixty working days to review the completed implementation plan for a proposed new century charter school to ensure that it meets the requirements of subsection (d) and section 302A-1184. Within forty-five working days, the panel shall issue a report of its preliminary findings to the board of education and the local school board. If the panel subsequently determines that the implementation plan:

- (1) Meets the requirements of subsection (d) and section 302A-1184, the panel shall by the sixtieth working day submit a recommendation to the board of education to issue a charter to the proposed new century charter school. Upon receipt of the panel's recommendation, the board

shall issue a charter, and the implementation plan shall be converted to a written performance contract between the school and the board; or

- (2) Fails to meet the requirements of subsection (d) or section 302A-1184, the panel:

(A) 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; and

(B) May submit a recommendation to the board to issue a provisional approval for a charter if the panel determines that the applicant may reasonably be expected to expeditiously resolve any remaining conflict or conflicts impeding the issuance of a charter. The provisional approval shall be effective for one year. The board may extend the provisional approval beyond a period of one year. If a charter is subsequently issued, the amended implementation plan shall be converted to a written performance contract between the school and the board.

(g) An amended implementation plan shall be submitted within thirty working days of notification pursuant to subsection (f)(2)(A). The board shall deny the issuance of a charter if the local school board does not submit an amended implementation plan within the thirty working day period. The panel shall have thirty working days to review the amended implementation plan. If the amended implementation plan:

(1) Meets the requirements of subsection (d) and section 302A-1184, the panel shall by the thirtieth working day submit a recommendation to the board of education to issue a charter to the proposed new century charter school. If a charter is issued, the amended implementation plan shall be converted to a written performance contract between the school and the board; or

(2) Fails to resolve any conflicts to the panel's satisfaction or involves new and different issues of conflict with subsection (d) or section 302A-1184, the panel shall deny issuance of a charter.

(h) A local school board may file an appeal of the denial of an application for a charter with the panel. Upon filing an appeal, the panel shall forward the implementation plan and appropriate documentation of the appeal to the board of education. Within thirty working days, the board of education shall issue a report of its findings and final determination to the local school board. If the implementation plan is approved, the board of education shall issue a charter and the implementation plan shall be converted to a written performance contract between the school and the board of education.

[(e)] (i) 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."

SECTION 2. Section 302A-1185, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(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 fiscal year; provided that the per pupil allocation to any new century charter school shall not exceed the department's average per pupil expenditure based upon the inclusion of similar cost items, in

the previous fiscal year; and provided further that in setting the allocation, the auditor shall explicitly consider the advice of the superintendent and representatives of local school boards and indicate in the final determination the manner in which that advice was accommodated;

- (2) Small schools with [less] fewer than one hundred twenty students [shall] may be given a state subsidy or small school allotment, as determined by the department, 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 department may provide a limited start-up and planning grant formulated by the auditor to a charter school upon the issuance of its charter;
- (4) The auditor shall take into consideration any changes to the department's budget made by the legislature or the governor and any applicable collective bargaining negotiated amounts;
- (5) 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 the increment available to all other public schools; and
- (6) The auditor shall develop a methodology for allocating funds that can be applied to alternative forms of public schools, including but not limited to new century charter 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 charter school by the department, the charter 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 charter 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 charter 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 boards, not from a supplementary grant, shall be separate and apart from allotted funds and may be expended at the discretion of the local school boards."

SECTION 3. Section 302A-1186, Hawaii Revised Statutes, is amended to read as follows:

“§302A-1186 New century charter schools; [self-evaluation-] accountability. (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;
- (3) The impact of any changes made upon the students of the new century charter school; and
- (4) A profile of the charter school's enrollment and community it serves.

Every new century charter school shall submit a report of its self-evaluation to the board within sixty working² days after the completion of the school year; provided that the department shall have thirty working² 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~~] annually for the first two years after its establishment and every four years thereafter to assure compliance with statewide student content and 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~~] one year 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.

(c) The board of education may adopt guidelines to supplement accountability measures incorporated in the written performance contracts required under section 302A-1182. The board of education may adopt guidelines under which new century charter schools shall be reviewed on an annual basis by the board for the first two years upon their formation under section 302A-1182. The review guidelines may include:

- (1) Minimum school size;
- (2) Assurance that each school will be able to account for the funds allocated;
- (3) Assurance that each school will be held accountable for student performance;
- (4) Assurance that each school will meet legal standards for the expenditure of state and federal funds; and
- (5) Assurance that each school will be in compliance with applicable state and federal laws.^{3'}

SECTION 4. Section 302A-1183, Hawaii Revised Statutes, is repealed.

SECTION 5. Section 302A-1189, Hawaii Revised Statutes, is repealed.

SECTION 6. Any other law to the contrary notwithstanding, in reviewing implementation plans for new century charter schools, the new century charter school review panel and board of education shall give priority to and review first any plans submitted by publicly funded schools or programs of publicly funded schools which were operational prior to the effective date of this Act.

SECTION 7. Statutory material to be repealed is bracketed and stricken.⁴ New statutory material is underscored.

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SECTION 8. This Act shall take effect on July 1, 2001.

(Approved June 2, 2001.)

Notes

1. Semicolon should be underscored.
2. “Working” should be underscored.
3. Subsection (c) is new and should be underscored.
4. Edited pursuant to HRS §23G-16.5.