

## ACT 2

S.B. NO. 2662

A Bill for an Act Relating to New Century Conversion Charter Schools.

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

SECTION 1. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to subpart D of part IV to be appropriately designated and to read as follows:

**“§302A- New century conversion charter schools; conversion schools.** (a) As used in this section:

“New century conversion charter school” means:

- (1) Any existing department school that is managed and operated in accordance with subsection (d); or
- (2) Any existing department school that is managed and operated by a nonprofit organization in accordance with this section, excluding subsection (d).

“Nonprofit organization” means a private, nonprofit, tax-exempt entity that:

- (1) Is recognized as a tax exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended;
- (2) Is domiciled in this State; and
- (3) Makes a minimum annual contribution of \$1 per pupil toward the operation of a new century conversion charter school for every \$4 per pupil allocated by the department for the operation of the charter school.

(b) A nonprofit organization may submit a letter of intent to the board of education to operate and manage an existing public school as a new century conversion charter school, establish a local school board as its governing body, and develop a detailed implementation plan pursuant to section 302A-1182(c); provided that:

- (1) The local school board as the governing body of the new century conversion charter school shall be composed of the board of directors of the nonprofit organization and not the participants specified in subsection (d)(1). The nonprofit organization may also appoint advi-

- sory panels of community representatives for each school managed by the organization, with whom the organization may consult; provided that these panels shall not have governing authority over the school and shall serve only in an advisory capacity to the nonprofit organization;
- (2) The detailed implementation plan for each new century conversion charter school to be operated by the nonprofit organization shall be formulated, developed, and submitted by the local school board. The detailed implementation plan shall be approved by a majority of the votes cast by 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;
  - (3) After the detailed implementation plan for a new century conversion charter school operated and managed by the nonprofit organization has been approved by the new century charter school review panel and the board of education as provided in section 302A-1182(d) to (g), the board of education shall issue a charter, and the implementation plan shall be converted to a written performance contract between the nonprofit organization and the board of education, under which the new century conversion charter school shall be managed and operated as a division of the nonprofit organization;
  - (4) The board of directors of the nonprofit organization, as the governing body for the new century conversion charter school that it operates and manages, shall have the same protections that are afforded to the state board of education;
  - (5) Any new century conversion charter school that is managed and operated by a nonprofit organization shall be eligible for the same federal and state funding as allowed to other department schools; provided that the nonprofit organization may allocate federal and state funds among two or more of the new century conversion charter schools that it operates and manages to the extent permitted by law; and
  - (6) If, at any time, the new century conversion 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 conversion charter school, except as provided in the detailed implementation plan.
- (c) Any nonprofit organization that seeks to manage or operate a new century conversion charter school as provided in subsection (b) shall comply with the following at the time of application:
- (1) Have bylaws or policies that describe the manner in which business is conducted and policies that relate to the management of potential conflict of interest situations;
  - (2) Have experience in the management and operation of public or private schools, or, to the extent necessary, agree to obtain appropriate services from another entity or entities possessing such experience;
  - (3) Comply with all applicable federal, state, and county laws, including being licensed and accredited, as applicable, in accordance with the requirements of federal, state, and county governments; and
  - (4) Comply with any other requirements prescribed by the department to ensure adherence with applicable federal, state, and county laws and the purposes of this chapter.
- (d) As an alternative to subsection (b), any public school or schools may submit a letter of intent to the board of education to form a new century conversion

charter school, establish a local school board as its governing body, and develop a detailed implementation plan pursuant to section 302A-1182(c); 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:
  - (A) Principals;
  - (B) Instructional staff members selected by the school instructional staff;
  - (C) Support staff selected by the support staff of the school;
  - (D) Parents of students attending the school selected by the parents of the school;
  - (E) Student body representatives selected by the students of the school; and
  - (F) The community at-large; and
- (2) The detailed implementation plan shall be approved by a majority of the votes cast by 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.

(e) Up to a total of twenty-five schools may be established as new century conversion charter schools.

(f) This section does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

(g) Unless otherwise provided in this section, the provisions in this subpart, as they relate to new century charter schools, shall apply to new century conversion charter schools. In the event of a conflict between the provisions in this section, as they relate to new century conversion charter schools, and the provisions in this subpart, this section shall control.”

SECTION 2. 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 subsection (c);
- (2) An existing public school pursuant to subsection (b)]; or
- ~~[(3)]~~ (2) The creation of a new school, comprising programs or sections of existing public school populations and using existing public school facilities, pursuant to subsection [(c)-] (b).

~~[(b) Any public school or schools 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); 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:
 
  - ~~(A) Principals;~~
  - ~~(B) Instructional staff members selected by the school instructional staff;~~
  - ~~(C) Support staff selected by the support staff of the school;~~
  - ~~(D) Parents of students attending the school selected by the parents of the school;~~~~

- (E) ~~Student body representatives selected by the students of the school; and~~
- (F) ~~The community at large; and~~
- (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.~~
- (e) ~~As an alternative to subsection (b), any~~

(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);] (c).

[(d)] (c) The local school board [shall], with the support and guidance of the superintendent, shall 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]:
  - (A) 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]; and
  - (B) The final determination of use shall fall within the board's discretion.

[(e)] (d) 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)]~~ (e) 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)]~~ (c) 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)]~~ (c) 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)]~~ (c) 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)]~~ (f) An amended implementation plan shall be submitted within thirty working days of notification pursuant to subsection ~~[(f)(2)(A)-]~~ (e)(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)]~~ (c) 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)]~~ (c) or section 302A-1184, the panel shall deny issuance of a charter.

~~[(h)]~~ (g) 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.

[†] (h) 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.”

Part II

SECTION 3. Section 26-35.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) For purposes of this section, “member” means any person who is appointed, in accordance with the law, to serve on a temporary or permanent state board, including members of the local school board of any new century charter school established under section 302A-1182[;] or new century conversion charter school established under section 302A-, council, authority, committee, or commission, established by law or elected to the board of education or the board of trustees of the employees’ retirement system under section 88-24; provided that “member” shall not include any person elected to serve on a board or commission in accordance with chapter 11 other than a person elected to serve on the board of education.”

SECTION 4. 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 new century charter schools defined in section 302A-101[;] and new century conversion charter schools defined in section 302A-; provided that beginning in fiscal year 1998-1999, and every year thereafter, the department shall distribute the full appropriation due to a new century charter school or new century conversion charter school pursuant to [section] sections 302A-1185 and 302A-, directly to the new century charter school[;] or new century conversion charter school.”

SECTION 5. Section 302A-1505, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Prior to meeting with the department of accounting and general services to advise it of a school’s repair and maintenance needs, the school’s principal and the business and fiscal officer shall consider the recommendations made by the school/community-based management council, if there is such a council at the school; or the local school board, if the school is a new century charter school[;] or a new century conversion charter school. If there is no school/community-based management council or local school board, then the school’s principal shall appoint a standing committee composed of a teacher, a member of the support staff, a parent, a student, and a community member.”

Part III

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 7. This Act shall take effect upon its approval.

(Approved April 4, 2002.)

**Note**

1. Edited pursuant to HRS §23G-16.5