

A Bill for an Act Relating to Charter Schools.

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

SECTION 1. Section 302A-1182, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Up to a total of [~~twenty-five~~] twenty-three 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; or
- (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 (b).”¹

SECTION 2. Section 302A-1184, Hawaii Revised Statutes, is amended to read as follows:

“~~[H]§302A-1184[H]~~ **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 decisionmaking;
 - (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. In addition, notwithstanding any law to the contrary, as public schools and entities of the State, new century public charter schools shall not bring suit against any other entity or agency of the State of Hawaii.”

SECTION 3. Section 302A-1185, Hawaii Revised Statutes, is amended to read as follows:

“**§302A-1185 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,]~~ 2001-2002, and every year thereafter, the auditor shall determine the appropriate allocation based on the total department general fund ~~[appropriation]~~ allocation for EDN 100, 200, 300, and 400 and [per pupil expenditure] projected per pupil allocation for the ~~[previous]~~ current 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 fewer than one hundred twenty students 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; provided further that the department shall provide appropriate transitional resources to a conversion charter school for its first year of operation as a charter school based on the department's allocation to the school for the year prior to conversion;
- (4) The auditor shall take into consideration any changes to the department's budget made by the legislature, ~~[or]~~ the governor ~~[and]~~, department-imposed restrictions, or any applicable collective bargaining negotiated amounts[-];² provided that the auditor shall exclude from the per pupil allocation funds for:
 - (A) Services that must be provided at the state level;
 - (B) Specific programs or projects that target individual schools, complexes, or districts;
 - (C) Grants in aid; and
 - (D) Resources of new facilities that target specific, new construction projects.
- (5) Any new century charter school may enter into an annual memorandum of agreement for centralized services to be provided by the department prior to the beginning of each school year, provided that:
 - (A) The allocation of the new century charter school shall be reduced in an amount based upon the per pupil amount expended by the department for such services; and
 - (B) The department may not retain new century charter school funds in excess of the actual cost of the service.
- ~~[(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 department shall determine and provide the appropriate level of special education staff and services necessary to ensure that the student's educational needs as indicated in the individualized educational plans are met; and

~~(6)~~ (7) 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[-]; and

(8) The auditor shall develop a methodology for allocating funds for conversion charter schools, by basing the allocation for each newly converted school on the EDN 100 and 200 program budgets, and upon written agreement between the conversion charter school's local school board and the department, specified sections of the EDN 300 and 400 program budgets the school received in the year prior to conversion; provided that the allocation may be adjusted to account for any changes that may be made by the legislature, the governor, department-imposed restrictions, or applicable collective bargaining negotiated amounts.

(b) All federal financial support for new century charter schools shall be no less than all other public schools; provided that if administrative services related to federal grants and subsidies 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-]~~ federal grants and subsidies.

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.

(c) To enable new century charter schools to access state funding prior to the start of each school year, foster their fiscal planning, and enhance their accountability, the department shall:

(1) Provide fifty per cent of a new century charter school's per pupil allocation based on the new century charter school's projected student enrollment no later than August 1 of each year; provided that the new century charter school shall submit to the department a projected student enrollment no later than May 15 of each year; and

(2) Provide the remaining per pupil allocation of a new century charter school based on the new century charter school's verified student enrollment no later than October 15 of each year; provided that the new century charter school shall submit to the department a verified student enrollment no later than September 15 of each year.

~~(e)~~ (d) 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[-], except as otherwise provided in the detailed implementation plan."

SECTION 4. Section 302A-1186, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The board shall initiate an independent evaluation of each new century charter school annually for the first two years after its establishment and every four years thereafter to assure organizational viability and compliance with applicable state laws, 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 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.

For the purposes of this subsection, "organizational viability" means that a new century charter school:

- (1) Has been duly constituted in accordance with its charter;
- (2) Has a local school board established in accordance with law and its charter;
- (3) Employs sufficient faculty and staff to provide the necessary educational program and support services and to operate the facility in accordance with its charter; and
- (4) Maintains comprehensive records regarding students, employees, and complies with federal and state health and safety requirements."

SECTION 5. Chapter 302A, Hawaii Revised Statutes, Part IV, Subpart D, is amended by adding a new section to be appropriately designated and to read as follows:

"§302A- New century charter schools; sports. The department shall provide students at new century charter schools with the same opportunity to participate in athletics provided to students at other public schools. If a student at a new century charter school wishes to participate in a sport for which there is no program at the new century charter school, the department shall allow that student to participate in a comparable program of any public school in the complex in which the new century charter school is located."

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.³

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

(Approved July 5, 2002.)

Notes

1. Subsection was enacted with amendments made by Act 2 of this session.
2. So in original.
3. Edited pursuant to HRS §23G-16.5.