

ACT 130

S.B. NO. 1174

A Bill for an Act Relating to Charter Schools.

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

PART I

SECTION 1. The legislature finds that during the 2010 regular session, the legislature adopted Senate Concurrent Resolution No. 108, S.D. 2, requesting the convening of a task force to establish a consistent funding formula, process, or both, by which equitable funding to charter schools could be determined. Facilities funding for charter schools is a critically important issue, but the legislature recognizes that the establishment of a needs-based facilities funding formula is a work in progress.

The legislature further finds that as charter schools continue to become a visible component of the education system in Hawaii, it is imperative to ensure that charter schools function in an efficient and cost-effective manner.

The purpose of this Act, therefore, is to:

- (1) Require the Charter School Administrative Office to include with the budget and capital improvement projects request, a detailed explanation of the formula used for needs-based facilities funding requests and a funding request breakdown by school;
- (2) Permit charter schools to appeal a denial of reauthorization by the charter school review panel to the board of education;
- (3) Require charter schools and their local school boards to develop internal policies and procedures consistent with ethical standards of conduct;
- (4) Change the frequency of each charter school's evaluation to every six years from every five years after the initial evaluation; and
- (5) Establish a task force on charter school governance, accountability, and authority to provide clarity to the relationships, responsibilities, and lines of accountability and authority among stakeholders of the charter school system.

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

"(b) The executive director, under the direction of the panel and in consultation with the charter schools, shall be responsible for the internal organization, operation, and management of the charter school system, including:

- (1) Preparing and executing the budget and the capital improvement projects request for the charter schools, including submission of the all means of finance budget request that reflects all anticipated expenditures to the panel, the board, the governor, and the legislature; provided that, in preparing the budget request with regard to needs-based facilities funding, the executive director shall ensure that,

as a budget item separate from other operating costs, the request [provides:

- (A) Funding for projected enrollment for the next school year for each charter school;
- (B) A calculation showing the per pupil funding based on the department of budget and finance's debt service appropriation for the department of education divided by the department of education's actual enrollment that school year; and
- (C) That no less than seventy per cent of the amount appropriated shall be allocated by the office to start-up charter schools on a per pupil basis; provided that the funds remaining shall be allocated to charter schools with facilities needs as recommended by the office and approved by the panel;]

is accompanied by a detailed explanation of the formula used and a funding request breakdown by school:

- (2) Allocating annual appropriations to the charter schools and distribution of federal funds to charter schools;
- (3) Complying with applicable state laws related to the administration of the charter schools;
- (4) Preparing contracts between the charter schools and the department for centralized services to be provided by the department;
- (5) Preparing contracts between the charter schools and other state agencies for financial or personnel services to be provided by the agencies to the charter schools;
- (6) Providing independent analysis and recommendations on charter school issues;
- (7) Representing charter schools and the charter school system in communications with the board, the governor, and the legislature;
- (8) Providing advocacy, assistance, and support for the development, growth, progress, and success of charter schools and the charter school system;
- (9) Providing guidance and assistance to charter applicants and charter schools to enhance the completeness and accuracy of information for panel review;
- (10) Assisting charter applicants and charter schools in coordinating their interactions with the panel as needed;
- (11) Assisting the panel to coordinate with charter schools in panel investigations and evaluations of charter schools;
- (12) Serving as the conduit to disseminate communications from the panel, the board, and the department to all charter schools;
- (13) Determining charter school system needs and communicating those needs to the panel, the board, and the department;
- (14) Establishing a dispute resolution and mediation process; and
- (15) Upon request by one or more charter schools, assisting in the negotiation of a collective bargaining agreement with the exclusive representative of its employees."

## PART II

SECTION 3. Section 302B-3, Hawaii Revised Statutes, is amended by amending subsection (i) to read as follows:

"(i) The powers and duties of the panel shall be to:

- (1) Appoint and evaluate the executive director and approve staff and salary levels for the charter school administrative office;

- (2) Review, approve, or deny charter applications for new charter schools in accordance with section 302B-5 for the issuance of new charters; provided that applicants that are denied a charter may appeal to the board for a final decision pursuant to section 302B-3.5;
- (3) Review, approve, or deny significant amendments to detailed implementation plans to maximize the school's financial and academic success, long-term organizational viability, and accountability. Charter schools that are denied a significant amendment to their detailed implementation plan may appeal to the board for a final decision pursuant to section 302B-3.5;
- (4) Pursuant to section 302B-3.6, compile and submit prioritized lists of charter schools to the department and enter into necessary agreements with the department to authorize charter schools to use and occupy vacant public school facilities or portions of school facilities;
- (5) Adopt reporting requirements for charter schools;
- (6) Review annual self-evaluation reports from charter schools and take appropriate action;
- (7) Adopt a clear process and rigorous organizational and educational criteria, including student achievement as a significant factor, for the authorization and reauthorization of school charters;
- (8) Evaluate each school charter, for the purpose of determining reauthorization, no later than four years following the initial issue of a charter and every six years thereafter; provided that charter schools that are denied reauthorization may appeal to the board for a final decision pursuant to section 302B-3.5;
- (9) Evaluate any aspect of a charter school that the panel may have concerns with and take appropriate action, which may include special monitoring, temporary withholding of an allocation for non-compliance issues, probation, or charter revocation; provided that charter schools that have their charter revoked may appeal to the board for a final decision pursuant to section 302B-3.5;
- (10) Periodically adopt improvements in the panel's monitoring and oversight of charter schools;
- (11) Periodically adopt improvements in the office's support of charter schools and management of the charter school system;
- (12) Review, modify, and approve charter schools' all means of finance budget, based upon criteria and an approval process established by the panel;
- (13) Survey all charter school facilities prior to, and in preparation for, determining recommendations to allocate non-per-pupil facilities funds to charter schools with facilities needs. The survey shall include, at minimum, for each charter school facility:
  - (A) The current status of the facility;
  - (B) Facilities costs, including all rents, leases, purchases, and repair and maintenance for lands and buildings;
  - (C) A prioritized list of facilities needs;
  - (D) Any capital improvement projects underway or scheduled; and
  - (E) Whether the facility is a conversion or start-up charter school, and current and projected enrollment; ~~and~~
- (14) Evaluate and investigate charter schools when concerns arise that necessitate the resolution or assistance with the resolution of legal, fiscal, health, safety, and other serious issues[-]; and

- (15) Ensure that local school boards are fulfilling their oversight responsibilities pursuant to section 302B-7.”

SECTION 4. Section 302B-3.5, Hawaii Revised Statutes, is amended to read as follows:

**“§302B-3.5 Appeals; charter school applications, reauthorizations, revocations, or detailed implementation plan amendments.** The board shall have the power to decide appeals from decisions of the panel to deny the approval of a charter school application, deny reauthorization of a charter school, revoke a charter school’s charter, or deny the approval of an amendment to a charter school’s detailed implementation plan. An appeal shall be filed with the board within twenty-one calendar days of the receipt of the notification of denial or revocation. Only a party whose charter school application has been denied, whose reauthorization has been denied, whose charter has been revoked, or whose amendment to a detailed implementation plan has been denied may initiate an appeal under this section for cause. The board shall review an appeal and issue a final decision within sixty calendar days of the filing of the appeal. The board may adopt applicable rules and procedures pursuant to chapter 91 for implementing the appeals process.”

SECTION 5. Section 302B-7, Hawaii Revised Statutes, is amended as follows:

**“§302B-7 Charter school local school boards; powers and duties.** (a) All local school boards, with the exception of those of conversion charter schools that are managed and operated by a nonprofit organization pursuant to section 302B-6(e), shall be 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.

(b) No chief executive officer, chief administrative officer, executive director, or otherwise designated head of a school may serve as the chair of the local school board.

(c) The local school board shall be the autonomous governing body of its charter school and shall have oversight over and be responsible for the financial and academic viability of the charter school, implementation of the charter, and the independent authority to determine the organization and management of the school, the curriculum, virtual education, and compliance with applicable federal and state laws. The local school board shall have the power to negotiate supplemental collective bargaining agreements with the exclusive representatives of their employees.

(d) Local school boards shall be exempt from 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. Charter schools are encouraged to use the provisions of chapter 103D wherever possible; provided that the use of one or more provisions

of chapter 103D shall not constitute a waiver of the exemption from chapter 103D and shall not subject the charter school to any other provision of chapter 103D.

(e) Charter schools and their local school boards shall be exempt from the requirements of chapters 91 and 92. The local school boards shall:

- (1) Make available the notices and agendas of public meetings:
  - (A) At a publicly accessible area in the local school board's office or the charter school administrative office so as to be available for review during regular business hours; and
  - (B) On the local school board's or charter school's internet website and the charter school administrative office's internet website not less than six calendar days prior to the public meeting, unless a waiver is granted by the executive director in the case of an emergency; and
- (2) Make available the minutes from public meetings on a timely basis ~~and~~ and maintain a list of the current names and contact information of the local school board's members and officers:
  - (A) ~~The~~ In the local school board's office or the charter school administrative office so as to be available for review during regular business hours; and
  - (B) On the local school board's or charter school's internet website~~[-]~~ and the charter school administrative office's internet website.

(f) Charter schools and their local school boards shall develop internal policies and procedures consistent with ethical standards of conduct, pursuant to chapter 84.

~~[(f)]~~ (g) The State shall afford the local school board of any charter school the same protections as the State affords the board."

SECTION 6. Section 302B-14, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The panel shall conduct a multi-year evaluation of each charter school on its fourth anniversary year and every ~~five~~ six years thereafter. The panel may from time to time establish a schedule to stagger the multi-year evaluations."

SECTION 7. (a) There is established within the charter school administrative office for administrative purposes only, a task force on charter school governance, accountability, and authority. The purpose of the task force shall be to provide clarity to the relationships, responsibilities, and lines of accountability and authority among stakeholders of the charter school system.

- (b) The task force shall consist of the following members:
  - (1) The chair of the senate committee on education, or the chair's designee;
  - (2) The chair of the house of representatives committee on education, or the chair's designee;
  - (3) A representative from the office of the governor;
  - (4) The state ethics commissioner, or the commissioner's designee;
  - (5) A member of the board of education;
  - (6) The superintendent of education, or the superintendent's designee;
  - (7) The executive director of the charter school administrative office, or the executive director's designee;
  - (8) The chair of the charter school review panel, or the chair's designee;

- (9) A representative from Kamehameha Schools;
  - (10) A representative from the Ho‘okako‘o Corporation;
  - (11) The executive director of the Hawaii Charter Schools Network, or the executive director’s designee; and
  - (12) A representative from the Hawaii Charter Schools Network.
- (c) The chair of the senate committee on education and the chair of the house of representatives committee on education, or their designees, shall serve as co-chairs of the task force.
- (d) The task force shall:
- (1) Develop legislation or administrative rules that clearly and definitively designate the governance structure and authority between and among key charter school organizations and the department of education, the board of education, and the office of the governor;
  - (2) Identify how the governance structure connects and relates to the state education agency and local education agency;
  - (3) Identify oversight and monitoring responsibilities of the charter school review panel, the charter school administrative office, and the local school boards and develop a process for enforcement; and
  - (4) Discuss funding-related issues, including but not limited to appropriate funding levels for the charter school administrative office.
- (e) The charter school administrative office shall provide administrative support, if necessary, to the task force.
- (f) The task force shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days prior to the convening of the regular session of 2012.

### PART III

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 15, 2011.)