

## ACT 234

H.B. NO. 1251

A Bill for an Act Relating to Public Charter Schools.

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

SECTION 1. The legislature finds that facilities funding has been a long-standing issue for charter schools nationally and locally. In Hawaii, start-up charter schools have paid the costs of their facilities from operational funds. However, Act 159, Session Laws of Hawaii 2013, authorized the state public charter school commission to request facilities funding as part of its annual budget request to the director of finance beginning with the 2014-2015 fiscal year.

During the regular session of 2014, several bills providing some type of facilities funding reached the committee on conference, indicating recognition of the need to support charter schools facilities to help ensure the financial, academic, and organizational health of public charter schools. However, the bills failed to pass the legislature. A recent board of education report on charter schools also recognized that the long-term financial sustainability of charter schools remains a concern.

The purpose of this Act is to provide:

- (1) A framework for providing facilities funding and support for public charter school facilities with adequate prioritization, oversight, and accountability; and
- (2) Public charter schools and early learning programs that are affiliated with a public charter school with the opportunity to secure the use of additional state facilities deemed vacant and appropriate for use.

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

**“§302D- Use of vacant department facilities.** (a) When any department considers whether to close any particular facility, it shall give reasonable consideration to making all or portions of the facility available to public charter schools and early learning programs that are affiliated with a public charter school.

(b) Each department shall provide notice to the superintendent and state public charter school commission identifying suitable unused facilities that may be appropriate for:

- (1) Public charter schools; and
- (2) Early learning programs, including the pre-plus program, that are affiliated with a public charter school.

The department of accounting and general services shall inventory the suitable facilities, and, in determining suitability for educational re-use, priority shall be given to facilities on sites with sufficient space for three or more classrooms.

(c) The department of accounting and general services shall adopt rules pursuant to chapter 91 necessary to carry out the purposes of this section.

(d) For purposes of this section, "department" means all of the departments listed in section 26-4.

(e) Upon receipt of a notice pursuant to subsection (b), the state public charter school commission shall:

(1) Solicit applications from public charter schools or early learning programs that are affiliated with a public charter school, respectively, that are interested in using and occupying all or portions of the facilities; and

(2) Submit a prioritized list of public charter schools or early learning programs that are affiliated with a public charter school, respectively, to the department of accounting and general services for final determination of which public charter schools or early learning programs that are affiliated with a public charter school, if any, shall be authorized to use and occupy the facilities."

SECTION 3. Section 302D-21, Hawaii Revised Statutes, is amended to read as follows:

**"§302D-21 Annual board report.** No later than twenty days prior to the convening of each regular session of the legislature, the board shall issue to the governor, the legislature, and the public, an annual report on the State's public charter schools, drawing from the annual reports submitted by every authorizer, as well as any additional relevant data compiled by the board, for the school year ending in the preceding calendar year. The annual report shall include:

(1) The board's assessment of the successes, challenges, and areas for improvement in meeting the purposes of this chapter, including the board's assessment of the sufficiency of funding for public charter schools, and any suggested changes in state law or policy necessary to strengthen the State's public charter schools;

(2) A line-item breakdown of all federal funds received by the department and distributed to authorizers;

(3) Any concerns regarding equity and recommendations to improve access to and distribution of federal funds to public charter schools; ~~and~~

~~(4) A summary of the criteria used by the charter school facilities funding working group, established pursuant to section 302D-29.5, in allocating facilities funding;~~

~~(5) A detailed breakdown of the allocation of funding through general funds and bond funds;~~

~~(6) A detailed list of the projects funded by general funds and bond funds;~~

~~(7) The status of funding for projects previously awarded; and~~

~~(4)] (8) A discussion of all board policies adopted in the previous year, including a detailed explanation as to whether each policy is or is not applicable to charter schools."~~

SECTION 4. Section 302D-29.5, Hawaii Revised Statutes, is amended to read as follows:

~~"§302D-29.5 Facilities funding. [(a) Beginning with fiscal year 2014-2015 and each fiscal year thereafter, the commission may request facilities fund-~~

~~ing for charter schools as part of its annual budget request to the director of finance and may receive, expend, or allocate any funds provided by the facilities funding request.~~

~~(b) The legislature may make an appropriation based upon the facilities funding request pursuant to subsection (a).]~~

(a) Beginning with the 2016-2017 fiscal year, and each fiscal year thereafter, the legislature shall consider making an appropriation and bond authorization to the commission for the design, planning, construction, repair, and maintenance of public charter school improvements to address issues of health, safety, and legal compliance; expand or improve instructional space; provide for food services; or provide restroom facilities. The appropriation and bond authorization for charter schools shall be separate from, and in addition to, any appropriation made to charter schools pursuant to this section and section 302D-28. These amounts shall be prioritized for allocation by the charter school facilities funding working group.

~~(b)~~ (b) The governor, pursuant to chapter 37, may impose restrictions or reductions on appropriations for charter schools similar to those imposed on department schools.

~~(c)~~ (c) This section shall not limit the ability of the director of finance to modify or amend any allotment pursuant to chapter 37.

(d) There is established a charter school facilities funding working group within the department of education, which shall consist of the following members, or their designees:

- (1) The chairperson of the commission;
- (2) The executive director of the commission;
- (3) The director of finance;
- (4) The comptroller;
- (5) The superintendent of education;
- (6) An individual with expertise in real estate, to be appointed by the chairperson of the commission; and
- (7) An individual with expertise in finance, to be appointed by the chairperson of the commission.

~~(e)~~ (e) The commission shall develop criteria to determine the distribution of funds appropriated pursuant to subsection ~~(b)~~ (a) to the charter schools. The criteria shall include ~~[but not be limited to]~~ distribution based on the need and performance of the charter schools[-], overall benefit to the surrounding community, amount of risk and availability of recourse to the State, and whether a particular charter school received facilities funding through other state funding, including grants-in-aid or a separate appropriation.

The charter school facilities funding working group shall be exempt from chapter 92 and shall act in an advisory capacity to prioritize the allocation of general fund appropriations and bond proceeds for public charter schools to expend based on the criteria established by the commission.

~~(f)~~ (e) Nothing in this section shall be construed as restricting the authority of the commission to support the facilities needs of the charter schools through other means.”

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval.

(Approved July 13, 2015.)

Note

1. Edited pursuant to HRS §23G-16.5.