H.B. NO. 3116

A BILL FOR AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 302B-3, Hawaii Revised Statutes, is amended to read as follows:

"**§302B-3 Charter school review panel; establishment; powers and duties.** (a) There is established the charter school review panel, which shall be placed within the department for administrative purposes only. The panel shall be accountable to the charter schools and the board. Notwithstanding section 302B-9, the panel shall be subject to chapter 92.

(b) The panel shall consist of twelve members, and shall include:

(1) Two licensed teachers regularly engaged in teaching; provided that one teacher is employed at a start-up charter school, and one teacher is employed at a conversion charter school;

(2) Two educational officers; provided that one educational officer is employed at a start-up charter

school, and one educational officer is employed at a conversion charter school;

(3) One member or former member of a charter school local school board;

(4) [~~The chair of the board of education or the chair's designee~~] One member with a background in accounting or finance who is not affiliated with charter schools;]

(5) A representative of Hawaiian culture-focused charter schools;

(6) Two representatives of the University of Hawaii who are not affiliated with charter schools;

(7) One member with a background in business [~~or accounting~~] who is not affiliated with charter schools;

(8) One member with a background in the building trades or real estate who is not affiliated with charter schools; and

(9) A representative from the Hawaii Association of Independent Schools;

provided that the initial appointments for representatives in paragraphs (7) to [~~4~~](9)[~~4~~] shall be made by September 1, 2007.

From June 1, 2007 until such time that the panel has twelve members, five members of the panel shall constitute a quorum to conduct business and a concurrence of at least five members shall be necessary to make any action of the panel valid; provided that, upon filling the twelve seats as required under this subsection, a majority of the panel shall constitute a quorum to conduct business, and the concurrence of a majority of all the members to which the panel is entitled shall be necessary to make any action of the panel valid.

(c) The [~~board~~] governor shall appoint the [~~remaining~~] members of the panel [~~other than the chair of the board~~].

(d) Appointed panel members shall serve not more than three consecutive three-year terms, with each term beginning on July 1; provided that the initial terms of the appointed members that commence after June 30, 2006, shall be staggered as follows:

(1) Four members to serve three-year terms;

(2) Four members to serve two-year terms; and

(3) Three members to serve a one-year term.

(e) Notwithstanding the terms of members, the board may add panel members at any time and replace panel members at any time when their positions become vacant through resignation,

1 non-participation, or upon request of a majority of panel
2 members.
3 (f) Panel members shall receive no compensation. When
4 panel duties require that a panel member take leave of the panel
5 member's duties as a state employee, the appropriate state
6 department shall allow the panel member to be placed on
7 administrative leave with pay and shall provide substitutes,
8 when necessary, to perform that panel member's duties. Panel
9 members shall be reimbursed for necessary travel expenses
10 incurred in the conduct of official panel business.
11 (g) The panel shall establish operating procedures that
12 shall include conflict of interest provisions for any member
13 whose school of employment or local school board membership is
14 before the panel.
15 (h) The chair of the panel shall be designated by the
16 members of the panel for each school year beginning July 1 and
17 whenever there is a vacancy. If the panel does not designate
18 its chair for the next school year by July 1, the board shall
19 designate the panel chair. When the panel chair is vacant, the
20 board shall designate an interim chair to serve until the panel
21 designates its chair.
22 (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) Adopt reporting requirements for charter schools;

(5) Review annual self-evaluation reports from charter schools and take appropriate action;

(6) Evaluate any aspect of a charter school that the panel may have concerns with and take appropriate action, which may include probation or revocation;

(7) Periodically adopt improvements in the panel's monitoring and oversight of charter schools; and

(8) Periodically adopt improvements in the office's support of charter schools and management of the charter school system.

(j) In the case that the panel decides not to issue a new charter, or to approve significant amendments to detailed implementation plans, the board may adopt rules for an appeals process pursuant to section 302B-3.5.

(k) The office shall provide for the staff support and expenses of the panel.

[~~(l) The panel shall be exempt from chapter 92.~~]"

SECTION 2. Section 302B-4, Hawaii Revised Statutes, is amended to read as follows:

"**§302B-4 Limits on charter schools.** The panel may [~~authorize one new start-up charter school for each existing start-up charter school that has received a three-year or longer accreditation from the Western Association of Schools and Colleges or a comparable accreditation authority as determined~~

~~by the panel, or for each start-up charter school whose charter is revoked. The total number of conversion charter schools authorized by the panel shall not exceed twenty-five.~~] establish criteria for the approval or denial of charter applications including limitations on the number of charters to be issued during a single round of applications."

SECTION 3. Section 302B-8, Hawaii Revised Statutes, is amended to read as follows:

"**§302B-8 Charter school administrative office.** (a) There is established a charter school administrative office, which shall be attached to the department for administrative purposes only. The office shall be administered by an executive director, who shall be appointed without regard to chapters 76 and 89 by the panel based upon the recommendations of an organization of charter schools operating within the State or from a list of nominees submitted by the charter schools. The panel shall hire the executive director, who may be contracted for a term of up to four years; shall offer the executive director a written contract; and may terminate the executive director's contract only for cause. The executive director, with the approval of the panel, may hire necessary staff without

1 regard to chapters 76 and 89 to assist in the administration of
2 the office.
3 (b) The executive director, under the direction of the
4 panel and in consultation with the charter schools, shall be
5 responsible for the internal organization, operation, and
6 management of the charter school system, including:
7 (1) Preparing and executing the budget for the charter
8 schools, including submission of the budget request to
9 the board, the governor, and the legislature;
10 (2) Allocating annual appropriations to the charter
11 schools and distribution of federal funds to charter
12 schools;
13 (3) Complying with applicable state laws related to the
14 administration of the charter schools;
15 (4) Preparing contracts between the charter schools and
16 the department for centralized services to be provided
17 by the department;
18 (5) Preparing contracts between the charter schools and
19 other state agencies for financial or personnel
20 services to be provided by the agencies to the charter
21 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.

(c) The executive director shall be evaluated annually by the panel. The annual evaluation shall be conducted sufficiently in advance of the end of a term to provide the executive director the opportunity to respond to concerns and improve performance.

(d) The salary of the executive director and staff shall be set by the panel based upon the recommendations of charter schools within the State; provided that the salaries and operational expenses of the office shall be paid from the annual charter school appropriation and shall not exceed two per cent of the total allocation in any fiscal year.

(e) The office shall include in its annual budget request additional funds to cover the estimated costs of:

(1) Vacation and sick leave accrued by employees transferring to a charter school from another state agency or department;

(2) Substitute teachers needed when a teacher is out on vacation or sick leave;

(3) Adjustments to enrollments; and

(4) Arbitration in the grievance process.

(f) The office shall withhold funds for charter school enrollments that are inconsistent with approved detailed implementation plans.

(g) The office shall withhold funds to repay overpayments or over-allocations received by charter schools when not repaid in a timely manner in accordance with rules adopted by the board.

(h) The office may carry over funds from previous year allocations. Funds distributed to charter schools shall be considered expended.

(i) The office shall be represented by an assigned deputy attorney general who does not represent, or function as, a subordinate to a deputy attorney general who represents the department or board of education."

SECTION 4. Section 302B-9, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Charter schools shall be exempt from [~~chapters~~] chapter 91 [~~and 92~~] and all other state laws in conflict with this chapter, except those regarding:

(1) Collective bargaining under chapter 89; provided that:

(A) The exclusive representatives as defined in chapter 89 and the local school board of the charter school may enter into supplemental agreements that contain cost and noncost items to facilitate decentralized decision-making;

(B) The agreements shall be funded from the current allocation or other sources of revenue received by the charter school; provided that collective bargaining increases for employees shall be allocated by the department of budget and finance to the charter school administrative office for distribution to charter schools; and

(C) These supplemental agreements may differ from the master contracts negotiated with the department;

(2) Discriminatory practices under section 378-2; and

(3) Health and safety requirements."

SECTION 5. Section 302B-12, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Beginning with fiscal year 2006-2007, and each fiscal year thereafter, the office shall submit a request for general fund appropriations for each charter school based upon:

(1) The actual and projected enrollment figures in the current school year for each charter school;

(2) A per-pupil amount for each regular education and special education student, which shall be equivalent to the total per-pupil cost based upon average enrollment in all regular education cost categories, including comprehensive school support services but excluding special education services, and for all means of financing except federal funds, as reported in the most [~~recently approved~~] recently approved executive budget recommendations for the department; provided that in preparing the budget the executive director shall include an analysis of the proposed budget in relationship to the most recently published department consolidated annual financial report; provided further that the legislature may make an

adjustment to the per-pupil allocation for the purposes of this section; and

(3) Those fringe benefit costs requested shall be included in the department of budget and finance's annual budget request. No fringe benefit costs shall be charged directly to or deducted from the charter school per-pupil allocations unless they are already included in the funds distributed to the charter school.

The legislature shall make an appropriation based upon the budget request; provided that the legislature may make additional appropriations for fringe, workers' compensation, and other employee benefits, facility costs, and other requested amounts[~~.~~]; provided further that the legislature shall provide funding for anticipated new start-up charter schools in each executive biennium and supplemental budget in addition to funding existing charter schools and without reducing current funding to existing charter schools.

The governor, pursuant to chapter 37, may impose restrictions or reductions on charter school appropriations similar to those imposed on other public schools."

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

SECTION 7. This Act shall take effect on July 1, 2008.

INTRODUCED BY: Calvin K.Y. Say

BY REQUEST

JAN 22 2008

H.B. NO. 3116

Report Title:
Charter Schools

Description:
Improves the composition of the Charter School Review Panel; makes the Panel subject to the sunshine law; removes the cap on the number of charter schools; and ensures funding for new charter schools.

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JUSTIFICATION SHEET

DEPARTMENT: Office of the Governor.

TITLE: A BILL FOR AN ACT RELATING TO PUBLIC CHARTER SCHOOLS.

PURPOSE: The purpose of this bill is to reiterate the objectives of the State's public charter schools, enhance and provide sufficient organizational support to sustain the independence of charter schools, set out the powers and responsibilities of charter schools clearly, provide charter schools with the resources they need to educate their students, and allow additional start-up charter schools to be established.

MEANS: Amend sections 302B-3, 302B-4, 302B-8, 302B-9(a), and 302B-12(a), Hawaii Revised Statutes.

JUSTIFICATION: Act 115, Session Laws of Hawaii 2007, made substantial changes to the charter school law, including expanding the authority of the Charter School Review Panel to approve new charter schools and amend the operating plans of existing schools.

In order for the panel to function independently from the Board of Education, which serves as both the appointing authority for members of the panel and the appeals body for charter applications that are denied, changes need to be made to the existing framework that governs the appointment process and membership of the Charter School Review Panel.

This bill also provides clear distinction of the application of chapter 92, Hawaii Revised Statutes, to the Charter School Review Panel, clarifies the legislative responsibility in appropriating a per-pupil funding amount for new start-up charter

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schools, and removes the cap on charter schools.

Impact on the public: The public will benefit from greater school choice and increased student achievement. A stronger charter school law will encourage individuals, groups, and communities to create start-up charter schools.

Impact on the department and other agencies: The measure removes the conflict of interest between the Board of Education and Charter School Review Panel.

The measure will result in better administration of a successful public charter school program by giving the Charter School Review Panel authority to determine their own policies and procedures for determining the approval or denial of a charter application.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: Department of the Attorney General.

EFFECTIVE DATE: July 1, 2008