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# A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

1           SECTION 1. The legislature finds that, pursuant to Act  
2 115, Session Laws of Hawaii 2007, the legislature sought to  
3 improve the public charter school system by clarifying the  
4 functions, duties, and roles of the charter school review panel  
5 and the board of education in the administration and operations  
6 of charter schools in the State. The legislature further finds  
7 that although the changes made were important and effective in  
8 assisting in charter schools administration, additional reform  
9 is necessary to allow charter schools in the State to continue  
10 to strive for excellence through effective and efficient  
11 operations.

12           The purpose of this Act is to make clarifying amendments to  
13 charter school administration, including among other things:

14           (1) Requiring a charter school board to comply with board  
15           of education policies and department of education  
16           directives regarding special education and federal  
17           programs;

- 1           (2) Clarifying that the charter school review panel is
- 2                   subject to the requirements of the sunshine law;
- 3           (3) Authorizing the board of education to remove a charter
- 4                   school review panel member for cause;
- 5           (4) Requiring the charter school review panel to approve
- 6                   the charter schools budget, capital improvement
- 7                   projects, and recommendations to allocate non-per-
- 8                   pupil facilities funds to charter schools with
- 9                   facilities needs;
- 10          (5) Specifying the duties of the executive director of the
- 11                   charter school administrative office with regard to
- 12                   the preparation of the budget;
- 13          (6) Changing the requirements for the per-pupil funding,
- 14                   and reducing the amount the department of education
- 15                   may retain for administrative costs from charter
- 16                   schools federal funds; and
- 17          (7) Requiring the charter school review panel to evaluate
- 18                   a charter school on its fourth anniversary and every
- 19                   five years after.

20           SECTION 2. Section 302B-1, Hawaii Revised Statutes, is

21 amended by amending the definitions of "local school board" and

22 "organizational viability" to read as follows:

1        "Local school board" means the autonomous governing body  
2 of a charter school that [~~receives~~]:

3        (1) Receives the charter and is responsible for the  
4 financial and academic viability of the charter school  
5 and implementation of the charter[~~, possesses~~];

6        (2) Possesses the independent authority to determine the  
7 organization and management of the school, the  
8 curriculum, virtual education, and compliance with  
9 board policies made in the board's capacity as the  
10 state education agency, department directives made in  
11 the department's capacity as the state education  
12 agency, and applicable federal and state laws[~~, [and]~~  
13 ~~has~~]; and

14       (3) Has the power to negotiate supplemental collective  
15 bargaining agreements with exclusive representatives  
16 of their employees.

17        "Organizational viability" means that a charter school:

18        (1) Has been duly constituted in accordance with its  
19 charter;

20        (2) Has a local school board established in accordance  
21 with law and the charter school's charter;

- 1 (3) Employs sufficient faculty and staff to provide the  
2 necessary educational program and support services to  
3 operate the facility in accordance with its charter;
- 4 (4) Maintains accurate and comprehensive records regarding  
5 students and employees as determined by the office;
- 6 (5) Meets appropriate standards of student achievement;
- 7 (6) Cooperates with board, panel, and office requirements  
8 in conducting its functions;
- 9 (7) Complies with applicable federal, state, and county  
10 laws and requirements;
- 11 (8) In accordance with office guidelines and procedures,  
12 is financially sound and fiscally responsible in its  
13 use of public funds, maintains accurate and  
14 comprehensive financial records, operates in  
15 accordance with generally accepted accounting  
16 practices, and maintains a sound financial plan;
- 17 (9) Operates within the scope of its charter and fulfills  
18 obligations and commitments of its charter;
- 19 (10) Complies with all health and safety laws and  
20 requirements; [~~and~~]
- 21 (11) Complies with all panel directives, policies, and  
22 procedures [~~and~~];

1        (12) Complies with board policies made in the board's  
2                    capacity as the state education agency regarding  
3                    special education and federal programs; and

4        (13) Complies with department directives in the  
5                    department's capacity as the state education agency  
6                    regarding special education and federal programs."

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

9            1. By amending subsection (a) to read:

10            "(a) There is established the charter school review panel,  
11 ~~[which]~~ that shall be placed within the department for  
12 administrative purposes only. The panel shall be accountable to  
13 the charter schools and the board. Notwithstanding section  
14 302B-9~~[7]~~ and any other law to the contrary, the panel shall be  
15 subject to chapter 92."

16            2. By amending subsection (e) to read:

17            "(e) Notwithstanding the terms of members, the board may  
18 add panel members at any time and replace panel members at any  
19 time when their positions become vacant through resignation,  
20 through non-participation, ~~[or]~~ upon request of a majority of  
21 panel members~~[-]~~, or upon termination by the board for cause."

22            3. By amending subsection (i) to read:

- 1        "(i) The powers and duties of the panel shall be to:
- 2        (1) Appoint and evaluate the executive director and
- 3        approve staff and salary levels for the charter school
- 4        administrative office;
- 5        (2) Review, approve, or deny charter applications for new
- 6        charter schools in accordance with section 302B-5 for
- 7        the issuance of new charters; provided that applicants
- 8        that are denied a charter may appeal to the board for
- 9        a final decision pursuant to section 302B-3.5;
- 10       (3) Review, approve, or deny significant amendments to
- 11       detailed implementation plans to maximize the school's
- 12       financial and academic success, long-term
- 13       organizational viability, and accountability. Charter
- 14       schools that are denied a significant amendment to
- 15       their detailed implementation plan may appeal to the
- 16       board for a final decision pursuant to section 302B-
- 17       3.5;
- 18       (4) Adopt reporting requirements for charter schools;
- 19       (5) Review annual self-evaluation reports from charter
- 20       schools and take appropriate action;

- 1 (6) Evaluate any aspect of a charter school that the panel  
2 may have concerns with and take appropriate action,  
3 which may include probation or revocation;
- 4 (7) Periodically adopt improvements in the panel's  
5 monitoring and oversight of charter schools; [~~and~~]
- 6 (8) Periodically adopt improvements in the office's  
7 support of charter schools and management of the  
8 charter school system[-];
- 9 (9) Review, modify, and approve charter schools' all means  
10 of finance budget, based upon criteria and an approval  
11 process established by the panel;
- 12 (10) Review, modify, and approve the capital improvement  
13 projects budget for charter school facilities, based  
14 upon criteria and an approval process established by  
15 the panel; provided that, upon approval, the office  
16 shall submit the capital improvement projects budget  
17 for charter school facilities directly to the  
18 department of budget and finance; and
- 19 (11) Review, modify, or approve recommendations of the  
20 office to allocate non-per-pupil facilities funds to  
21 charter schools with facilities needs."

1 SECTION 4. Section 302B-8, Hawaii Revised Statutes, is  
2 amended as follows:

3 1. By amending subsection (b) to read:

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

8 (1) Preparing and executing the budget for the charter  
9 schools, including submission of the all means of  
10 finance budget request that reflects all anticipated  
11 expenditures to the panel, the board, the governor,  
12 and the legislature; provided that, in preparing the  
13 budget request with regard to facilities funding, the  
14 executive director shall ensure that, as a budget item  
15 separate from other operating costs, the request  
16 provides:

17 (A) Funding for projected enrollment for the next  
18 school year for each charter school;

19 (B) A calculation showing the per-pupil funding based  
20 on a portion of the department's debt service  
21 appropriation divided by the department's actual  
22 enrollment that school year; and



- 1           (C) That no less than seventy per cent of the amount  
2           appropriated shall be allocated by the office to  
3           start-up charter schools on a per-pupil basis;  
4           provided that the funds remaining shall be  
5           allocated to charter schools with facilities  
6           needs as recommended by the office and approved  
7           by the panel;
- 8           (2) Allocating annual appropriations to the charter  
9           schools and distribution of federal funds to charter  
10          schools;
- 11          (3) Complying with applicable state laws related to the  
12          administration of the charter schools;
- 13          (4) Preparing contracts between the charter schools and  
14          the department for centralized services to be provided  
15          by the department;
- 16          (5) Preparing contracts between the charter schools and  
17          other state agencies for financial or personnel  
18          services to be provided by the agencies to the charter  
19          schools;
- 20          (6) Providing independent analysis and recommendations on  
21          charter school issues;

- 1 (7) Representing charter schools and the charter school  
2 system in communications with the board, the governor,  
3 and the legislature;
- 4 (8) Providing advocacy, assistance, and support for the  
5 development, growth, progress, and success of charter  
6 schools and the charter school system;
- 7 (9) Providing guidance and assistance to charter  
8 applicants and charter schools to enhance the  
9 completeness and accuracy of information for panel  
10 review;
- 11 (10) Assisting charter applicants and charter schools in  
12 coordinating their interactions with the panel as  
13 needed;
- 14 (11) Assisting the panel to coordinate with charter schools  
15 in panel investigations and evaluations of charter  
16 schools;
- 17 (12) Serving as the conduit to disseminate communications  
18 from the panel, the board, and the department to all  
19 charter schools;
- 20 (13) Determining charter school system needs and  
21 communicating those needs to the panel, the board, and  
22 the department;

- 1 (14) Establishing a dispute resolution and mediation  
2 process; [~~and~~]
- 3 (15) Upon request by one or more charter schools, assisting  
4 in the negotiation of a collective bargaining  
5 agreement with the exclusive representative of its  
6 employees[~~;~~]; and
- 7 (16) Preparing a separate capital improvement projects  
8 budget request for charter school facilities, which  
9 shall be submitted to the charter school review panel  
10 for approval and, upon approval, submitting the  
11 capital improvement projects budget for charter school  
12 facilities directly to the department of budget and  
13 finance and the board of education; provided that the  
14 budget request shall show the relationship between the  
15 proportionate share of the department's debt service  
16 on this budget request."

17 2. By amending subsection (d) to read:

18 "(d) The salary of the executive director and staff shall  
19 be set by the panel based upon the recommendations of charter  
20 schools within the State; provided that the salaries and  
21 operational expenses of the office shall be paid from the annual  
22 charter school appropriation and shall not exceed two per cent

1 of the total general fund allocation [~~in any fiscal year.~~] at an  
2 amount to be determined annually by the panel."

3 SECTION 5. Section 302B-12, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§302B-12 Funding and finance.** (a) Beginning with fiscal  
6 year [~~2006-2007,~~] 2009-2010, and each fiscal year thereafter,  
7 [~~the office shall submit a request for general fund~~  
8 ~~appropriations for each charter school based upon:~~] the non-  
9 facility per-pupil funding request for charter school students  
10 shall not be less than the per-pupil amount to the department in  
11 that same year, as set forth in paragraph (2); provided that:

12 (1) The [~~actual and~~] per-pupil funding request shall  
13 include funding for projected enrollment figures [~~in~~  
14 ~~the current school year~~] for each charter school; and

15 (2) [A] The per-pupil [amount] request for each regular  
16 education and special education student [~~, which shall~~  
17 ~~be equivalent to the total per-pupil cost based upon~~  
18 ~~average enrollment in~~] shall:

19 (A) Include all general fund regular education cost  
20 categories, including comprehensive school  
21 support services, but excluding special education  
22 services[~~7~~]; provided that special education

1 services are provided and funded by the  
2 department;

3 (B) Include [~~all means of financing except federal~~  
4 ~~funds,~~] general funds as reported in the most  
5 recently-approved executive budget  
6 recommendations for the department; provided that  
7 in preparing the budget the executive director  
8 shall include an analysis of the proposed budget  
9 in relationship to the most recently published  
10 department consolidated annual financial report[~~+~~  
11 ~~provided further that the legislature may make an~~  
12 ~~adjustment to the per-pupil allocation for the~~  
13 ~~purposes of this section]; and~~

14 (C) Exclude fringe benefit costs and debt service.

15 [~~(3) Those fringe~~] (b) Fringe benefit costs [~~requested~~]  
16 for charter school employees, regardless of the payroll system  
17 utilized by a charter school, shall be included in the  
18 department of budget and finance's annual budget request. No  
19 fringe benefit costs shall be charged directly to or deducted  
20 from the charter school per-pupil allocations [~~unless they are~~  
21 ~~already included in the funds distributed to the charter~~  
22 ~~school].~~

1           The legislature shall [~~make an appropriation based upon the~~  
2 ~~budget request,~~] provide funding for charter schools based upon  
3 the requirements of this section; provided that the legislature  
4 [~~may~~] shall make additional appropriations for fringe, workers'  
5 compensation, and other employee benefits[~~7~~] and facility  
6 costs[~~7~~and]. The legislature may make additional  
7 appropriations for other requested amounts[~~7~~] that benefit  
8 charter schools.

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

12           [~~(b)~~] (c) Charter schools shall be eligible for all  
13 federal financial support to the same extent as all other public  
14 schools. The department shall provide the office with all  
15 state-level federal grant proposals submitted by the department  
16 that include charter schools as potential recipients and timely  
17 reports on state-level federal grants received for which charter  
18 schools may apply or are entitled to receive. Federal funds  
19 received by the department for charter schools shall be  
20 transferred to the office for distribution to charter schools in  
21 accordance with the federal requirements. [~~If administrative~~  
22 ~~services related to federal grants and subsidies are provided to~~

1 ~~the charter school by the department, the charter school shall~~  
2 ~~reimburse the department for the actual costs of the~~  
3 ~~administrative services in an amount that shall not exceed six~~  
4 ~~and one-half]~~ The department shall retain \_\_\_\_\_ per cent of the  
5 charter school's federal grants and subsidies[-] as an  
6 administrative fee.

7 Any charter school shall be eligible to receive any  
8 supplemental federal grant or award for which any other public  
9 school may submit a proposal, or any supplemental federal grants  
10 limited to charter schools; provided that if department  
11 administrative services, including funds management, budgetary,  
12 fiscal accounting, or other related services, are provided with  
13 respect to these supplemental grants, the charter school shall  
14 reimburse the department for [~~the actual costs of the~~  
15 ~~administrative services in an amount that shall not exceed six~~  
16 ~~and one-half per cent of the supplemental grant for which the~~  
17 ~~services are used.] an administrative fee in the amount of \_\_\_\_\_  
18 per cent of the charter school's federal grants and subsidies.~~

19 All additional funds generated by the local school boards,  
20 that are not from a supplemental grant, shall be held separate  
21 from allotted funds and may be expended at the discretion of the  
22 local school boards.

1            [~~(e)~~] (d) To enable charter schools to access state  
2 funding prior to the start of each school year, foster their  
3 fiscal planning, and enhance their accountability, the office  
4 shall:

5            (1) Provide fifty per cent of a charter school's per-pupil  
6 allocation based on the charter school's projected  
7 student enrollment no later than July 20 of each  
8 fiscal year; provided that the charter school shall  
9 have submitted to the office a projected student  
10 enrollment no later than May 15 of each year;

11           (2) Provide an additional forty per cent of a charter  
12 school's per-pupil allocation no later than  
13 November 15 of each year; provided that the charter  
14 school shall have submitted to the office:

15           (A) Student enrollment as verified on October 15 of  
16 each year; provided that the student enrollment  
17 shall be verified on the last business day  
18 immediately prior to October 15 should that date  
19 fall on a weekend; and

20           (B) An accounting of the percentage of student  
21 enrollment that transferred from public schools  
22 established and maintained by the department;



1 provided that these accountings shall also be  
2 submitted by the office to the legislature no  
3 later than twenty days prior to the start of each  
4 regular session; and

5 (3) Retain [~~the remaining~~] no more than ten per cent of a  
6 charter school's per-pupil allocation no later than  
7 [~~January 1~~] June 30 of each year as a contingency  
8 balance to ensure fiscal accountability[~~+~~] and  
9 compliance;

10 provided that the panel may make adjustments in allocations  
11 based on noncompliance with [~~federal and state reporting~~  
12 ~~requirements,~~] board policies made in the board's capacity as  
13 the state education agency, department directives made in the  
14 department's capacity as the state education agency, the  
15 office's administrative procedures, and board-approved  
16 accountability requirements.

17 [~~(d)~~] (e) The department shall provide appropriate  
18 transitional resources to a conversion charter school for its  
19 first year of operation as a charter school based upon the  
20 department's allocation to the school for the year prior to the  
21 conversion.

1           ~~[(e)]~~ (f) No start-up charter school or conversion charter  
2 school may assess tuition."

3           SECTION 6. Section 302B-14, Hawaii Revised Statutes, is  
4 amended as follows:

5           1. By amending subsection (b) to read:

6           "(b) The panel shall conduct a multi-year [evaluations]  
7 evaluation of each charter [schools that have been chartered for  
8 four or more years.] school on its fourth anniversary year and  
9 every five years thereafter. The panel may from time to time  
10 establish a schedule to stagger the multi-year evaluations."

11           2. By amending subsection (g) to read:

12           "(g) If there is an immediate concern for student or  
13 employee health or safety at a charter school, the panel, in  
14 consultation with the office, may adopt an interim restructuring  
15 plan that may include the appointment of an interim local school  
16 board, an interim local school board chairperson, or a principal  
17 to temporarily assume operations of the school; provided that if  
18 possible without further jeopardizing the health or safety of  
19 students and employees, the charter school's stakeholders and  
20 community are first given the opportunity to elect a new local  
21 school board which shall appoint a new interim principal. The  
22 board shall have the authority to direct the panel to take

1 appropriate action to immediately address serious health and  
2 safety issues that may exist at a charter school in order to  
3 ensure the health and safety of students and employees and  
4 mitigate significant liability to the State."

5 SECTION 7. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 8. This Act shall take effect on July 1, 2050.

**Report Title:**

Charter Schools; Funding

**Description:**

Clarifies the functions, duties, and roles of the charter school review panel in the administration and operation of charter schools, and improves fiscal and budgetary accountability.

Effective 7/1/50. (SD1)