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# A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1           SECTION 1. Chapter 302D, Hawaii Revised Statutes, is  
2 amended by adding two new sections to be appropriately  
3 designated and to read as follows:

4           "§302D-A Fees. (a) In administering its  
5 responsibilities, the commission may assess fees on non-state  
6 entities and individuals to help offset its operating costs.

7           (b) Fees collected by the commission shall be deposited  
8 into insured checking or savings accounts and shall be expended  
9 by the commission.

10           (c) The commission shall adopt rules pursuant to chapter  
11 91 to implement this section; provided that, notwithstanding  
12 this section or any other law to the contrary, the commission  
13 may set the initial amount of fees authorized pursuant to this  
14 section at any time without regard to chapter 91, if the  
15 commission:

16           (1) Holds at least one public hearing to take and discuss  
17 public testimony on the proposed fee amount; and



1       (2) Provides public notice at least thirty days prior to  
2           the date of the public hearing.

3       §302D-B Approved charter applications; start-up period;  
4 pre-opening charter schools. (a) The authorizer may require a  
5 charter applicant whose charter application is approved by the  
6 authorizer pursuant to section 302D-13 or 302D-14 to  
7 satisfactorily meet pre-contracting criteria set by the  
8 authorizer before being allowed to enter into a charter  
9 contract.

10       (b) An approved charter applicant that fails to  
11 satisfactorily meet the pre-contracting criteria and enter into  
12 a charter contract with its authorizer within the period  
13 initially established or subsequently extended by the authorizer  
14 shall be considered to have withdrawn its application.

15       (c) A charter applicant shall not be considered an entity  
16 of the State until the pre-opening charter school is established  
17 by execution of the charter contract. A pre-opening charter  
18 school that is a conversion charter school shall be a separate  
19 entity of the State from the department school from which it is  
20 converting during the start-up period.

21       (d) The authorizer shall establish pre-opening criteria in  
22 order to ensure that a pre-opening charter school is prepared to



1 successfully open and operate as a charter school. Until such  
2 time as the pre-opening school satisfactorily meets such pre-  
3 opening criteria and commences operations in its first full  
4 academic year, the pre-opening charter school:

5 (1) Shall not be entitled to receive funding under section  
6 302D-26, 302D-28, or 302D-29;

7 (2) Shall employ no employees but may engage independent  
8 contractors;

9 (3) Shall not be subject to the performance framework  
10 under section 302D-16; and

11 (4) May be granted temporary exemptions from provisions of  
12 the charter contract by the authorizer.

13 (e) The charter contract of a pre-opening charter school  
14 that fails to satisfactorily meet its pre-opening criteria  
15 within the start-up period initially established or subsequently  
16 extended by the authorizer shall be void. The pre-opening  
17 charter school shall thereupon be considered an approved charter  
18 applicant that has withdrawn its application.

19 (f) An approved charter applicant that withdraws its  
20 application shall not be allowed to execute a charter contract  
21 unless it reapplies and has its charter application approved by  
22 an authorizer in accordance with this chapter."



1 SECTION 2. Section 89C-1.5, Hawaii Revised Statutes, is  
2 amended by amending the definition of "appropriate authority" to  
3 read as follows:

4 "Appropriate authority" means the governor, the respective  
5 mayors, the chief justice of the supreme court, the board of  
6 education, the board of regents, the state public charter school  
7 commission, the Hawaii health [+]systems[+] corporation board,  
8 the auditor, the ombudsman, and the director of the legislative  
9 reference bureau. These individuals or boards may make  
10 adjustments for their respective excluded employees."

11 SECTION 3. Section 302D-1, Hawaii Revised Statutes, is  
12 amended as follows:

13 1. By adding three new definitions to be appropriately  
14 inserted and to read:

15 "Department school" means any school that falls within the  
16 definition of "public schools" as defined in section 302A-101  
17 and that is not a charter school.

18 "Executive director" means the executive director of the  
19 state public charter school commission.

20 "Pre-opening charter school" means a charter school that  
21 has not yet satisfactorily fulfilled the authorizer's pre-  
22 opening assurance as required under section 302A-B or has not



1 yet commenced full operations as a charter school during its  
2 first full academic year."

3 2. By amending the definition of "charter contract" to  
4 read:

5 "Charter contract or "charter" means a fixed-term,  
6 bilateral, renewable contract between a public charter school  
7 and an authorizer that outlines the roles, powers,  
8 responsibilities, and performance expectations for each party to  
9 the contract."

10 3. By amending the definition of "charter school" or  
11 "public charter school" to read:

12 "Charter school" or "public charter school" refers to  
13 those public schools and their respective governing boards, as  
14 defined in this section, that are holding current charter  
15 contracts to operate as charter schools under this chapter,  
16 including start-up and conversion charter schools, and that have  
17 the flexibility and independent authority to implement  
18 alternative frameworks with regard to curriculum, facilities  
19 management, instructional approach, virtual education, length of  
20 the school day, week, or year, and personnel management."

21 4. By amending the definition of "conversion charter  
22 school" to read:



1 "Conversion charter school" means:

2 (1) Any existing department school that converts to a  
3 charter school and is managed and operated in  
4 accordance with section 302D-14; or

5 (2) Any existing department school that converts to a  
6 charter school and is managed and operated by a  
7 nonprofit organization in accordance with  
8 section 302D-14 [~~;~~ ~~or~~

9 ~~(3) A newly created school consisting of programs or~~  
10 ~~sections of existing public school populations that~~  
11 ~~are funded and governed independently and may include~~  
12 ~~part of a separate Hawaiian language immersion program~~  
13 ~~using existing public school facilities]."~~

14 5. By amending the definition of "nonprofit organization"  
15 to read:

16 "Nonprofit organization" means a private, nonprofit, tax-  
17 exempt entity that:

18 (1) Is recognized as a tax-exempt organization under  
19 [~~section 501(e)(3) of~~] the Internal Revenue Code; and

20 (2) Is [~~domiciled~~] registered to do business in this  
21 State [~~;~~] in accordance with chapter 414D."

22 6. By deleting the definition of "charter".



1           ~~["Charter" means a charter application as approved by an~~  
2 ~~authorizer."]~~

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

5           "**§302D-3 State public charter school commission;**  
6 **establishment; appointment.** (a) There is established the state  
7 public charter school commission with statewide chartering  
8 jurisdiction and authority. The commission shall be placed  
9 within the department for administrative purposes only.

10 Notwithstanding section 302D-25 and any law to the contrary, the  
11 commission shall be subject to chapter 92.

12           (b) The mission of the commission shall be to authorize  
13 high-quality public charter schools throughout the State.

14           (c) The commission shall consist of nine members to be  
15 appointed by the board. The board shall appoint members who  
16 will be tasked with authorizing public charter schools that  
17 serve the unique and diverse needs of public school students.  
18 The chair of the commission shall be designated by the members  
19 of the commission for each school year beginning July 1, and  
20 whenever there is a vacancy. The board shall consider the  
21 combination of abilities, breadth of experiences, and  
22 characteristics of the commission, including but not limited to



1 reflecting the diversity of the student population, geographical  
2 representation, and a broad representation of education-related  
3 stakeholders. The commission shall be exempt from sections  
4 26-34 and 26-36.

5 (d) Understanding that the role of the commission is to  
6 ensure a long-term strategic vision for Hawaii's public charter  
7 schools, each nominee to the commission shall meet the following  
8 minimum qualifications:

9 (1) Commitment to education. Each nominee's record should  
10 demonstrate a deep and abiding interest in education,  
11 and a dedication to the social, academic, and  
12 character development of young people through the  
13 administration of a high performing charter school  
14 system;

15 (2) Record of integrity, civic virtue, and high ethical  
16 standards. Each nominee shall demonstrate integrity,  
17 civic virtue, and high ethical standards and be  
18 willing to hold fellow commission members to the same;

19 (3) Availability for constructive engagement. Each  
20 nominee shall commit to being a conscientious and  
21 attentive commission member; and





1           (4) Knowledge of best practices. Each nominee shall have  
2           an understanding of best practices in charter school  
3           educational governance or shall be willing to be  
4           trained in such.

5           (e) Each nominee to the commission shall ideally meet the  
6 following recommended qualifications:

7           (1) Experience governing complex organizations. Each  
8           nominee should possess experience with complex  
9           organizations, including but not limited to  
10          performance contract management, and a proven ability  
11          to function productively within them; and

12          (2) Collaborative leadership ability. Each nominee should  
13          have substantial leadership experience that ideally  
14          illustrates the nominee's ability to function among  
15          diverse colleagues as an effective team member, with  
16          the ability to articulate, understand, and help shape  
17          consensus surrounding commission policies.

18          (f) Five members of the commission shall constitute a  
19 quorum to conduct business and a concurrence of at least five  
20 members shall be necessary to make any action of the commission  
21 valid.



1 (g) Commission members shall serve not more than three  
2 consecutive three-year terms, with each term beginning on  
3 July 1; provided that the initial terms that commence after  
4 June 30, 2012, shall be staggered as follows:

- 5 (1) Three members, including the chairperson, to serve  
6 three-year terms;
- 7 (2) Three members to serve two-year terms; and
- 8 (3) Three members to serve one-year terms.

9 (h) Notwithstanding the terms of the members, the board  
10 may fill vacancies in the commission at any time when a vacancy  
11 occurs due to resignation, non-participation, the request of a  
12 majority of the commission members, or termination by the board  
13 for cause.

14 (i) Commission members shall receive no compensation.  
15 When commission duties require that a commission member take  
16 leave of the member's duties as a state employee, the  
17 appropriate state department shall allow the commission member  
18 to be placed on administrative leave with pay and shall provide  
19 substitutes, when necessary, to fulfill that member's  
20 departmental duties. Members shall be reimbursed for necessary  
21 travel expenses incurred in the conduct of official commission  
22 business.



1       ~~[(j)] Commission members shall disclose to the commission a~~  
2 ~~list of all charter schools in which the member is an employee,~~  
3 ~~governing board member, vendor, contractor, agent, or~~  
4 ~~representative. Any member having such a relationship to a~~  
5 ~~charter school that comes before the commission shall be~~  
6 ~~disqualified from voting on or participating in the discussion~~  
7 ~~on that charter school.~~

8       ~~(k)]~~ (j) The commission shall operate with dedicated  
9 resources and staff qualified to execute the day-to-day  
10 responsibilities of the commission pursuant to this chapter.  
11 The legislature shall make an appropriation to the commission  
12 separate from, and in addition to, any appropriation made to  
13 charter schools pursuant to sections 302D-28 and 302D-29.5.

14       ~~[(l)]~~ (k) The commission shall have the power to hire  
15 staff without regard to chapters 76 and 89. The commission  
16 shall determine staff wages, hours, benefits, and other terms  
17 and conditions for employment in accordance with chapter 89C."

18       SECTION 5. Section 302D-5, Hawaii Revised Statutes, is  
19 amended to read as follows:

20       "**§302D-5 Authorizer powers, duties, and liabilities.** (a)  
21 Authorizers are responsible for executing the following  
22 essential powers and duties:



- 1 (1) Soliciting and evaluating charter applications;
- 2 (2) Approving quality charter applications that meet
- 3 identified educational needs and promote a diversity
- 4 of educational choices;
- 5 (3) Declining to approve weak or inadequate charter
- 6 applications;
- 7 (4) Negotiating and executing sound charter contracts with
- 8 each approved charter applicant and with existing
- 9 public charter [school,] schools;
- 10 (5) Monitoring, in accordance with charter contract terms,
- 11 the performance and legal compliance of public charter
- 12 schools; and
- 13 (6) Determining whether each charter contract merits
- 14 renewal, nonrenewal, or revocation.
- 15 (b) An authorizer shall:
- 16 (1) Act as the point of contact between the department and
- 17 a public charter school it authorizes [~~and be~~
- 18 ~~responsible for the administration of all applicable~~
- 19 ~~state and federal laws];~~
- 20 (2) Be responsible for and ensure the compliance of a
- 21 public charter school it authorizes with all



1 applicable state and federal laws, including reporting  
2 requirements;

3 (3) Be responsible for the receipt of applicable federal  
4 funds from the department and the distribution of  
5 funds to the public charter school it authorizes; and

6 (4) Be responsible for the receipt of per-pupil funding  
7 from the department of budget and finance and  
8 distribution of the funding to the public charter  
9 school it authorizes.

10 (c) An authorizer shall have the power to make and execute  
11 contracts and all other instruments necessary or convenient for  
12 the exercise of its duties and functions under this chapter.

13 [~~e~~] (d) An authorizer may delegate its duties to officers,  
14 employees, and contractors.

15 [~~d~~] (e) Regulation by authorizers shall be limited to  
16 the powers and duties set forth in this section, and shall be  
17 consistent with the spirit and intent of this chapter.

18 [~~e~~] (f) An authorizer, members of the board of an  
19 authorizer acting in their official capacity, and employees or  
20 agents of an authorizer are immune from civil and criminal  
21 liability with respect to all activities related to a public  
22 charter school authorized by that authorizer, except for any



1 acts or omissions constituting wilful misconduct. Members of  
2 the commission shall be afforded the same protection afforded  
3 the members of the board pursuant to section 26-35.5.

4 [~~f~~] (g) An authorizer shall not provide technical  
5 support to a charter school it authorizes in cases where the  
6 technical support will directly and substantially impact any  
7 authorizer decision related to the authorization, renewal,  
8 revocation, or nonrenewal of the charter school. This  
9 subsection shall not apply to technical support that an  
10 authorizer is required to provide to a charter school pursuant  
11 to federal law."

12 SECTION 6. Section 302D-7, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "[~~f~~] §302D-7 [~~f~~] **Authorizer reporting.** Every authorizer  
15 shall be required to submit to the board and the legislature an  
16 annual report summarizing:

17 (1) The authorizer's strategic vision for chartering and  
18 progress toward achieving that vision;

19 (2) The academic [~~and financial~~] performance of all  
20 operating public charter schools overseen by the  
21 authorizer, according to the performance expectations  
22 for public charter schools set forth in this



1           chapter~~[7]~~, including a comparison of the performance  
2           of public charter school students with public school  
3           students statewide;

4           (3) The financial performance of all operating public  
5           charter schools overseen by the authorizer, according  
6           to the performance expectations for public charter  
7           schools set forth in this chapter;

8           ~~[(3)]~~ (4) The status of the authorizer's public charter  
9           school portfolio, identifying all public charter  
10          schools and applicants in each of the following  
11          categories: approved (but not yet open), approved  
12          (but withdrawn), not approved, operating, renewed,  
13          transferred, revoked, not renewed, or voluntarily  
14          closed~~[, or never opened]~~;

15          ~~[(4)]~~ (5) The authorizing functions provided by the  
16          authorizer to the public charter schools under its  
17          purview, including the authorizer's operating costs  
18          and expenses detailed in annual audited financial  
19          statements that conform with generally accepted  
20          accounting principles;

21          ~~[(5)]~~ (6) The services purchased from the authorizer by the  
22          public charter schools under its purview;



1       ~~[(6)]~~ (7) A line-item breakdown of the federal funds  
2               received by the department and distributed by the  
3               authorizer to public charter schools under its  
4               control; and

5       ~~[(7)]~~ (8) Any concerns regarding equity and recommendations  
6               to improve access to and distribution of federal funds  
7               to public charter schools."

8               SECTION 7. Section 302D-8, Hawaii Revised Statutes, is  
9       amended to read as follows:

10              "~~[-]~~§302D-8~~[+]~~ **Conflict of interests.** No employee,  
11 trustee, agent, or representative of an authorizer may  
12 simultaneously serve as an employee, trustee, agent,  
13 representative, vendor, or contractor of a public charter school  
14 authorized by that authorizer. Authorizer members shall  
15 disclose to the authorizer a list of all charter schools in  
16 which the member has previously been an employee, governing  
17 board member, vender, contractor, agent, or representative."

18              SECTION 8. Section 302D-12, Hawaii Revised Statutes, is  
19 amended to read as follows:

20              "§302D-12 **Charter school governing boards; powers and**  
21 **duties.** (a) No more than one-third of the voting members of a  
22 governing board shall be employees or former employees of a





1 school ~~[or]~~, relatives of employees or former employees of a  
2 school, or any vendor or contractor providing goods or services  
3 to a charter school under the jurisdiction of that governing  
4 board~~[-]~~ unless at least one year has passed since the  
5 conclusion of the employee's employment with the school or the  
6 conclusion of a vendor's or contractor's service to the school.

7 (b) In selecting governing board members, consideration  
8 shall be given to persons who:

9 (1) Provide the governing board with a diversity of  
10 perspective and a level of objectivity that accurately  
11 represent the interests of the charter school students  
12 and the surrounding community;

13 (2) Demonstrate an understanding of best practices of  
14 nonprofit governance; and

15 (3) Possess strong financial and academic management and  
16 oversight abilities, as well as human resource and  
17 fundraising experience.

18 ~~[-]~~ (c) No employee or former employee of a charter school  
19 ~~[or]~~, relative of an employee or former employee of a charter  
20 school, or any vendor or contractor providing goods or services  
21 to a charter school may serve as the chair of the governing  
22 board of that charter school~~[+]~~ unless at least one year has



1 elapsed since the conclusion of the employee's employment with  
2 the school or the conclusion of a vendor's or contractor's  
3 service to the school; provided that an authorizer may grant an  
4 exemption from the provisions of this subsection based upon a  
5 determination by the authorizer that an exemption is in the best  
6 interest of the charter school.

7 (d) Section 78-4 shall not apply to members of governing  
8 boards; provided that no governing board member shall be allowed  
9 to serve on more than two governing boards simultaneously. For  
10 purposes of this subsection, a governing board that governs more  
11 than one charter school shall be considered one board.

12 [~~(e)~~] (e) The governing board shall be the independent  
13 governing body of its charter school and shall have oversight  
14 over and be responsible for the financial, organizational, and  
15 academic viability of the charter school, implementation of the  
16 charter, and the independent authority to determine the  
17 organization and management of the school, the curriculum,  
18 virtual education, and compliance with applicable federal and  
19 state laws. The governing board shall ensure its school  
20 complies with the terms of the charter contract between the  
21 authorizer and the school. The governing board shall have the



1 power to negotiate supplemental collective bargaining agreements  
2 with the exclusive representatives of their employees.

3 ~~[(d)]~~ (f) Governing boards and charter schools shall be  
4 exempt from chapter 103D, but shall develop internal policies  
5 and procedures for the procurement of goods, services, and  
6 construction, consistent with the goals of public accountability  
7 and public procurement practices. Governing boards and charter  
8 schools are encouraged to use the provisions of chapter 103D  
9 wherever possible; provided that the use of one or more  
10 provisions of chapter 103D shall not constitute a waiver of the  
11 exemption from chapter 103D and shall not subject the charter  
12 school to any other provision of chapter 103D.

13 ~~[(e)]~~ (g) Charter schools and their governing boards shall  
14 be exempt from the requirements of chapters 91 and 92. The  
15 governing boards shall:

16 (1) Hold meetings open to the public;

17 ~~[(1)]~~ (2) Make available the notices and agendas of public  
18 meetings:

19 (A) At a publicly accessible area in the ~~[governing~~  
20 ~~board's office and the authorizer's office]~~  
21 charter school's office so as to be available for  
22 review during regular business hours; and

1 (B) On the [~~governing board's or~~] charter school's  
 2 internet website [~~, if applicable, and the~~  
 3 ~~authorizer's internet website~~] not less than six  
 4 calendar days prior to the public meeting, unless  
 5 a waiver is granted by the authorizer or  
 6 authorizer's designee in the case of an  
 7 emergency; and

8 ~~[-2-]~~ (3) Make available the minutes from public meetings  
 9 within thirty days and maintain a list of the current  
 10 names and contact information of the governing board's  
 11 members and officers:

12 (A) In the [~~governing board's office and the~~  
 13 ~~authorizer's office~~] charter school's office so  
 14 as to be available for review during regular  
 15 business hours; and

16 (B) On the [~~governing board's or~~] charter school's  
 17 internet website [~~, if applicable, and the~~  
 18 ~~authorizer's internet website~~].

19 ~~[-f-]~~ (h) All charter school employees and members of  
 20 governing boards shall be subject to chapter 84.

21 ~~[-g-]~~ (i) Governing boards shall be exempt from sections 26-  
 22 34 and 26-36. The State shall afford the governing board of any



1 charter school the same protections as the State affords the  
2 board[-] in accordance with section 26-35.5.

3 [~~h~~] (j) For purposes of this section:

4 "Employees" shall include but not be limited to [~~the~~]:

5 (1) The chief executive officer, chief administrative  
6 officer, executive director, or otherwise designated  
7 head of a charter school [~~and shall include any~~]; and

8 (2) Any person under an employment contract to serve as  
9 the chief executive officer, chief administrative  
10 officer, executive director, or designated head of a  
11 charter school.

12 "Relative" means a spouse, fiance, or fiancée of the  
13 employee; any person who is related to the employee within four  
14 degrees of consanguinity; or the spouse, fiance, or fiancée of  
15 such person.

16 [~~i~~] (k) Governing boards shall have the power to make and  
17 execute contracts and all other instruments necessary or  
18 convenient for the exercise of their duties and functions under  
19 this chapter. Whenever a charter school or governing board  
20 seeks to enter into a contract with a private organization,  
21 whether for-profit or nonprofit, to manage or operate the  
22 charter school, which contract requires the private organization



1 to employ or otherwise provide the charter school with an  
2 individual to serve in the capacity of the chief executive  
3 officer, chief administrative officer, executive director, or  
4 designated head of the charter school, the charter school's  
5 governing board, in consultation with the state ethics  
6 commission, shall adopt standards of conduct that shall apply to  
7 the chief executive officer, chief administrative officer,  
8 executive director, or designated head of the charter school.  
9 The standards of conduct shall include provisions relating to  
10 gifts, fair treatment or misuse of position, and conflicts of  
11 interest, and shall be incorporated into and made part of any  
12 contract or arrangement between the charter school or governing  
13 board and the private organization for those services."

14 SECTION 9. Section 302D-13, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 **"§302D-13 Start-up charter schools; establishment.** (a)  
17 New start-up charter schools may be established pursuant to this  
18 section.

19 (b) Any community, group of teachers, group of teachers  
20 and administrators, or nonprofit organization may submit a  
21 letter of intent to an authorizer to form a charter school,



1 establish a governing board as its governing body, and develop a  
2 charter application pursuant to subsection (d).

3 (c) The start-up charter school charter application  
4 process and schedule shall be determined by the authorizer, and  
5 shall provide for and include, at a minimum, the following  
6 elements:

- 7 (1) The submission of a letter of intent to operate a  
8 start-up charter school;
- 9 (2) The availability of the charter application form and  
10 completion guidelines on the authorizer's website;
- 11 (3) The timely submission of a completed charter  
12 application to the authorizer;
- 13 (4) The timely review of the charter application by the  
14 authorizer for completeness, and notification by the  
15 authorizer to the governing board that the charter  
16 application is complete;
- 17 (5) Upon receipt of a completed charter application, the  
18 review and evaluation of the charter application by  
19 qualified persons;
- 20 (6) Following the review and evaluation of a charter  
21 application, approval or denial of the charter  
22 application by the authorizer;



1 (7) A provision for a final date by which a decision to  
2 approve or deny a charter application must be made by  
3 the authorizer, upon receipt of a complete charter  
4 application; and

5 (8) A provision that no start-up charter school may begin  
6 operation before obtaining authorizer approval of its  
7 charter application and charter contract and  
8 fulfilling pre-opening requirements that may be  
9 imposed by the authorizer.

10 (d) A charter application to become a start-up charter  
11 school shall meet the requirements of this subsection and  
12 section 302D-25. The charter application shall, at a minimum,  
13 include the following:

14 (1) A description of employee rights and management issues  
15 and a framework for addressing those issues that  
16 protects the rights of employees;

17 (2) A plan for identifying, recruiting, and retaining  
18 highly qualified instructional faculty as defined by  
19 the department;

20 (3) A plan for identifying, recruiting, and selecting  
21 students that is not exclusive, elitist, or  
22 segregationist, and complies with this chapter;





- 1           (4) The curriculum and instructional framework to be used
- 2                   to achieve student outcomes, including an assessment
- 3                   plan;
- 4           (5) A plan for the assessment of student, administrative
- 5                   support, and teaching personnel performance that:
- 6                   (A) Recognizes the interests of the general public;
- 7                   (B) Incorporates or exceeds the educational content
- 8                           and performance standards developed by the
- 9                           department for the public school system;
- 10                  (C) Includes a system of faculty and staff
- 11                           accountability that holds faculty and staff
- 12                           individually and collectively accountable for
- 13                           their performance, and that is at least
- 14                           equivalent to the average system of
- 15                           accountability in public schools throughout the
- 16                           State; and
- 17                  (D) Provides for program audits and annual financial
- 18                           audits;
- 19           (6) A governance structure for the charter school that
- 20                   incorporates a conflict of interest policy and a plan
- 21                   for periodic training to carry out the duties of
- 22                   governing board members;



1 (7) A description of the constitution of the governing  
2 board, terms of governing board members, and the  
3 process by which governing board members were  
4 selected;

5 (8) A financial plan based on the most recent fiscal  
6 year's per-pupil charter school allocation that  
7 demonstrates the ability to meet the financial  
8 obligations of one-time, start-up costs and ongoing  
9 costs such as monthly payrolls, faculty recruitment,  
10 professional development, and facilities costs; and

11 (9) A facilities plan.

12 ~~[(e) Any applicant whose charter application is denied by~~  
13 ~~the authorizer shall not be allowed to amend or resubmit the~~  
14 ~~charter application to the authorizer during a given cycle, as~~  
15 ~~defined by the authorizer; provided that an applicant shall have~~  
16 ~~the right to appeal the authorizer's denial of its charter~~  
17 ~~application pursuant to section 302D-15.~~

18 ~~(f)]~~ (e) In reviewing a charter application under this  
19 section, an authorizer shall take into consideration the  
20 constitution of the applicant's governing board, terms of  
21 governing board members, and the process by which governing  
22 board members were selected.



1        [~~g~~] (f) In reviewing charter applications under this  
2 section, an authorizer shall develop a schedule to approve or  
3 deny a charter application by the end of the calendar year for  
4 purposes of meeting any deadlines to request funding from the  
5 legislature."

6        SECTION 10. Section 302D-14, Hawaii Revised Statutes, is  
7 amended to read as follows:

8        "**§302D-14 Conversion charter schools; establishment.** (a)  
9 A conversion charter school may be established pursuant to this  
10 section.

11        (b) Any department school, school community council, group  
12 of teachers, group of teachers and administrators, or nonprofit  
13 organization may submit a letter of intent to an authorizer to  
14 convert a department school to a charter school, establish a  
15 governing board as its governing body, and develop a charter  
16 application pursuant to subsection (d).

17        (c) The conversion charter school charter application  
18 process and schedule shall be determined by the authorizer, and  
19 shall provide for and include the following elements:

20        (1) The submission of a letter of intent to convert to a  
21 charter school;



- 1           (2) The availability of the charter application form and  
2           completion guidelines on the authorizer's website;
- 3           (3) The timely submission of a completed charter  
4           application to the authorizer; provided that the  
5           charter application shall include certification and  
6           documentation that the charter application was  
7           approved by a majority of the votes cast by existing  
8           administrative, support, and teaching personnel, and  
9           parents of students at the existing department school;  
10          provided that:
- 11          (A) This vote shall be considered by the authorizer  
12             to be the primary indication of the existing  
13             administrative, support, and teaching personnel,  
14             and parents' approval to convert to a charter  
15             school;
- 16          (B) The balance of stakeholders represented in the  
17             vote and the extent of support received in  
18             support of the conversion shall be key factors,  
19             along with the applicant's proposed plans, to be  
20             considered by the authorizer when deciding  
21             whether to award a charter; and



- 1 (C) A breakdown of the number of administrative,
- 2 support, and teaching personnel, and parents of
- 3 students who constitute the existing department
- 4 school and the number who actually participated
- 5 in the vote shall be provided to the authorizer;
- 6 (4) The timely review of the charter application by the
- 7 authorizer for completeness, and notification by the
- 8 authorizer to the governing board that the charter
- 9 application is complete;
- 10 (5) Upon receipt of a completed charter application, the
- 11 review and evaluation of the charter application by
- 12 qualified persons;
- 13 (6) Following the review and evaluation of a charter
- 14 application, approval or denial of the charter
- 15 application by the authorizer;
- 16 (7) A provision for a final date by which a decision of
- 17 whether to approve or deny a charter application must
- 18 be made by the authorizer, upon receipt of a complete
- 19 charter application; and
- 20 (8) A provision that no conversion charter school may
- 21 begin operation before obtaining authorizer approval
- 22 of its charter and charter contract and fulfilling



1 pre-opening requirements that may be imposed by the  
2 authorizer.

3 (d) A charter application to become a conversion charter  
4 school shall meet the requirements of this subsection and  
5 section 302D-25. The charter application shall include, at a  
6 minimum, the following:

7 (1) A description of employee rights and management issues  
8 and a framework for addressing those issues that  
9 protects the rights of employees;

10 (2) A plan for identifying, recruiting, and retaining  
11 highly qualified instructional faculty, as defined by  
12 the department;

13 (3) A plan for identifying, recruiting, and selecting  
14 students that is not exclusive, elitist, or  
15 segregationist, and complies with this chapter;

16 (4) The curriculum and instructional framework to be used  
17 to achieve student outcomes, including an assessment  
18 plan;

19 (5) A plan for the assessment of student, administrative  
20 support, and teaching personnel performance that:

21 (A) Recognizes the interests of the general public;



1 (B) Incorporates or exceeds the educational content  
2 and performance standards developed by the  
3 department for the public school system;

4 (C) Includes a system of faculty and staff  
5 accountability that holds faculty and staff  
6 individually and collectively accountable for  
7 their performance, and that is at least  
8 equivalent to the average system of  
9 accountability in public schools throughout the  
10 State; and

11 (D) Provides for program audits and annual financial  
12 audits;

13 (6) A governance structure for the charter school that  
14 incorporates a conflict of interest policy and a plan  
15 for periodic training to carry out the duties of  
16 governing board members;

17 (7) A description of the constitution of the governing  
18 board, terms of governing board members, and the  
19 process by which governing board members were  
20 selected;

21 (8) A financial plan based on the most recent fiscal  
22 year's per-pupil charter school allocation that



1 demonstrates the ability to meet the financial  
2 obligations of one-time, start-up costs and ongoing  
3 costs such as monthly payrolls, faculty recruitment,  
4 professional development, and facilities costs; and

5 (9) A facilities plan.

6 (e) A nonprofit organization may submit a letter of intent  
7 to an authorizer to convert a department school to a conversion  
8 charter school, operate and manage the school, establish a  
9 governing board as its governing body, and develop a charter  
10 application pursuant to subsection (d); provided that:

11 (1) As the governing body of the conversion charter  
12 school, the governing board shall be the board of  
13 directors of the nonprofit organization and shall not  
14 be selected pursuant to section 302D-12. The  
15 nonprofit organization may also appoint advisory  
16 groups of community representatives for each school  
17 managed by the nonprofit organization; provided that  
18 these groups shall not have governing authority over  
19 the school and shall serve only in an advisory  
20 capacity to the nonprofit organization;

21 (2) The charter application for each conversion charter  
22 school to be operated by the nonprofit organization





1 shall be formulated, developed, and submitted by the  
2 nonprofit organization, and shall be approved by a  
3 majority of the votes cast by existing administrative,  
4 support, and teaching personnel, and parents of  
5 students of the existing department school; provided  
6 that:

7 (A) This vote shall be considered by the authorizer  
8 to be the primary indication of the existing  
9 administrative, support, and teaching personnel,  
10 and parents' approval to convert to a charter  
11 school;

12 (B) The balance of stakeholders represented in the  
13 vote and the extent of support received in  
14 support of the conversion shall be a key factor,  
15 along with the applicant's proposed plans, in an  
16 authorizer's decision to award a charter; and

17 (C) A breakdown of the number of administrative,  
18 support, and teaching personnel, and parents of  
19 students who constitute the existing department  
20 school and the number who actually participated  
21 in the vote shall be provided to the authorizer;

- 1           (3) The board of directors of the nonprofit organization,  
2           as the governing body for the conversion charter  
3           school that it operates and manages, shall have the  
4           same protections that are afforded to the board in its  
5           role as the conversion charter school governing body;
- 6           (4) Any conversion charter school that is managed and  
7           operated by a nonprofit organization shall be eligible  
8           for the same federal and state funding as other public  
9           schools; provided that nothing in this section shall  
10          prohibit a nonprofit organization from making a  
11          contribution toward the operation of a conversion  
12          charter school; and
- 13          (5) If, at any time, the board of directors of the  
14          nonprofit organization governing the conversion  
15          charter school votes to discontinue its relationship  
16          with the charter school, the charter school may submit  
17          a revised charter application to the authorizer to  
18          continue as a conversion charter school without the  
19          participation of the nonprofit organization.
- 20          (f) Any nonprofit organization that seeks to manage or  
21          operate a conversion charter school as provided in subsection



1 (e) shall comply with the following at the time of charter  
2 application:

3 (1) Have bylaws or policies that describe the manner in  
4 which business is conducted and policies that relate  
5 to the management of potential conflict of interest  
6 situations;

7 (2) Have experience in the management and operation of  
8 public or private schools or, to the extent necessary,  
9 agree to obtain appropriate services from another  
10 entity or entities possessing such experience;

11 (3) Comply with all applicable federal, state, and county  
12 laws, including licensure or accreditation, as  
13 applicable; and

14 (4) Comply with any other requirements prescribed by the  
15 department to ensure adherence with applicable  
16 federal, state, and county laws, and the purposes of  
17 this chapter.

18 ~~[(g) Any public school or schools, programs, or sections of~~  
19 ~~existing public school populations that are part of a separate~~  
20 ~~Hawaiian language immersion program using existing public school~~  
21 ~~facilities may submit a letter of intent to an authorizer to~~  
22 ~~form a conversion charter school pursuant to this section.~~



1       ~~(h)~~] (g) In reviewing a charter application for a charter  
2 under this section, an authorizer shall take into consideration  
3 the constitution of the applicant's governing board, terms of  
4 governing board members, and the process by which governing  
5 board members were selected.

6       ~~(i)~~] (h) In the event of a conflict between the provisions  
7 in this section and other provisions in this chapter, this  
8 section shall control.

9       ~~(j)~~] (i) In reviewing charter applications for a charter  
10 under this section, an authorizer shall develop a schedule to  
11 approve or deny a charter application by the end of the calendar  
12 year for purposes of meeting any deadlines to request funding  
13 from the legislature."

14       SECTION 11. Section 302D-16, Hawaii Revised Statutes, is  
15 amended as follows:

16       1. By amending subsections (a) and (b) to read:

17       "(a) The performance provisions within the charter  
18 contract shall be based on a performance framework that clearly  
19 sets forth the academic, financial, organizational, and  
20 operational performance indicators, measures, and metrics that  
21 will guide the authorizer's evaluations of each public charter  
22 school. The performance framework, as established by the



1 authorizer, shall include indicators, measures, and metrics for;  
2 at a minimum:

- 3 (1) Student academic proficiency;
- 4 (2) Student academic growth;
- 5 (3) Achievement gaps in proficiency and growth between  
6 major student subgroups;
- 7 (4) Attendance;
- 8 (5) Enrollment variance;
- 9 (6) Postsecondary readiness, as applicable for high  
10 schools;
- 11 (7) Financial performance and sustainability;
- 12 (8) Performance and stewardship, including compliance with  
13 all applicable laws, rules, and terms of the charter  
14 contract; and
- 15 (9) Organizational viability.

16 (b) Annual academic performance targets shall be set by each  
17 public charter school in conjunction with its authorizer, and  
18 shall be designed to [~~help~~] track each school [~~meet~~] in meeting  
19 applicable federal, state, and authorizer expectations."

20 2. By amending subsections (d) through (f) to read:



1        "(d)    The performance framework shall require the  
2    disaggregation of all student performance data by major student  
3    subgroups [~~, as determined by the board~~].

4        (e)    For each public charter school it oversees, the  
5    authorizer shall be responsible for [~~managing~~] verifying and  
6    either maintaining or having access to all charter school data  
7    [~~from assessments in accordance with~~] upon which the performance  
8    [~~framework.]~~ framework relies.

9        (f)    Multiple schools [~~operating under a single charter~~  
10   ~~contract or~~] overseen by a single governing board shall be  
11   required to report their performance as separate, individual  
12   charter schools, and each charter school shall be held  
13   independently accountable for its performance."

14        SECTION 12.    Section 302D-17, Hawaii Revised Statutes, is  
15   amended by amending subsections (d) and (e) to read as follows:

16        "(d)    Notwithstanding section 302D-18 to the contrary,  
17   every authorizer shall have the authority to take appropriate  
18   corrective actions or exercise sanctions short of revocation in  
19   response to apparent deficiencies in public charter school  
20   performance or legal compliance.    Such actions or sanctions may  
21   include, if warranted [~~, requiring~~]:



- 1        (1) Requiring a school to develop and execute a corrective
- 2                    action plan within a specified time frame[-]; and
- 3        (2) Reconstituting the governing board of the charter
- 4                    school; provided that the following conditions are
- 5                    met:
- 6                    (A) Reconstitution occurs only under exigent
- 7                    circumstances, including the following:
- 8                    (i) Unlawful or unethical conduct by governing
- 9                    board members;
- 10                    (ii) Unlawful or unethical conduct by the charter
- 11                    school's personnel that raises serious
- 12                    doubts about the governing board's ability
- 13                    to fulfill its statutory, contractual, or
- 14                    fiduciary responsibilities; and
- 15                    (iii) Other circumstances that raise serious
- 16                    doubts about the governing board's ability
- 17                    to fulfill its statutory, contractual, or
- 18                    fiduciary responsibilities;
- 19                    (B) The authorizer shall replace up to, but no more
- 20                    than, the number of governing board members
- 21                    necessary so that the newly appointed members
- 22                    constitute a voting majority in accordance with



1           the governing board's bylaws; except that the  
2           authorizer may replace the entire governing board  
3           if the alternative is the initiation of  
4           revocation of the charter school's charter  
5           contract and the governing board opts instead for  
6           reconstitution; and

7           (C) Reconstitution occurs in accordance with  
8           processes set forth by the authorizer that  
9           provide the charter school's personnel and  
10           parents with timely notification of the prospect  
11           of reconstitution.

12           ~~(e) [If there is an immediate concern for student or~~  
13           ~~employee health or safety at a charter school, the authorizer~~  
14           ~~may adopt an interim restructuring plan that may include the~~  
15           ~~appointment of an interim governing board, a governing board~~  
16           ~~chairperson, or a principal to temporarily assume operations of~~  
17           ~~the school; provided that if possible without further~~  
18           ~~jeopardizing the health or safety of students and employees, the~~  
19           ~~charter school's stakeholders and community are first given the~~  
20           ~~opportunity to elect a new governing board which shall appoint a~~  
21           ~~new interim principal.] The authorizer shall have the authority~~  
22           to direct the governing board and the charter school 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 or  
4 mitigate significant liability to the State.

5       The board shall have the authority to direct the authorizer  
6 to take appropriate action to immediately address serious health  
7 and safety issues that may exist at a charter school in order to  
8 ensure the health and safety of students and employees and  
9 mitigate significant liability to the State."

10       SECTION 13. Section 302D-18, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12       "(b) The authorizer shall issue a charter school  
13 performance report and charter contract renewal application  
14 guidance to any charter school whose charter contract [~~will~~  
15 ~~expire the following~~] is in its final contract year. The  
16 performance report shall summarize the charter school's  
17 performance record to date, based on the data required by this  
18 chapter and the charter contract, and shall provide notice of  
19 any weaknesses or concerns perceived by the authorizer  
20 concerning the charter school that may jeopardize its position  
21 in seeking renewal."



1 SECTION 14. Section 302D-21, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§302D-21 Annual board report. No later than twenty days  
4 prior to the convening of each regular session of the  
5 legislature, the board shall issue to the governor, the  
6 legislature, and the public, an annual report on the State's  
7 public charter schools, drawing from the annual reports  
8 submitted by every authorizer, as well as any additional  
9 relevant data compiled by the board, for the school year ending  
10 in the preceding calendar year. The annual report shall  
11 include:

12 ~~[(1) A comparison of the performance of public charter  
13 school students with the performance of comparable  
14 subgroups of students in public schools governed by  
15 chapter 302A;~~

16 ~~(2)]~~ (1) The board's assessment of the successes,  
17 challenges, and areas for improvement in meeting the  
18 purposes of this chapter, including the board's  
19 assessment of the sufficiency of funding for public  
20 charter schools, and any suggested changes in state  
21 law or policy necessary to strengthen the State's  
22 public charter schools;



- 1        [~~3~~] (2) A line-item breakdown of all federal funds
- 2                    received by the department and distributed to
- 3                    authorizers;
- 4        [~~4~~] (3) Any concerns regarding equity and recommendations
- 5                    to improve access to and distribution of federal funds
- 6                    to public charter schools; and
- 7        [~~5~~] (4) A discussion of all board policies adopted in the
- 8                    previous year, including a detailed explanation as to
- 9                    whether each policy is or is not applicable to charter
- 10                   schools."

11                SECTION 15. Section 302D-24, Hawaii Revised Statutes, is  
 12 amended to read as follows:

13                "~~[+]~~ §302D-24 ~~[+]~~ **Occupancy and use of facilities of**

14 ~~[public]~~ department schools. (a) When the department considers

15 whether to close any particular ~~[public]~~ department school, the

16 department shall submit a notice of possible availability of a

17 ~~[public]~~ department school or notice of vacancy of a ~~[public]~~

18 department school to the board pursuant to section

19 302A-1151.5(b); provided that the department has not elected to

20 use the ~~[public]~~ department school to support education

21 programs.



1 (b) If a charter school exclusively or jointly occupies or  
2 uses buildings or facilities of a [~~public~~] department school  
3 immediately prior to converting to a charter school, upon  
4 conversion that charter school shall be given continued  
5 exclusive or joint use of the buildings or facilities; provided  
6 that:

- 7 (1) The State may reclaim some or all of the buildings or  
8 facilities if it demonstrates a tangible and  
9 imperative need for such reclamation; and
- 10 (2) The State and the conversion charter school  
11 voluntarily enter into an agreement detailing the  
12 portion of those buildings or facilities that shall be  
13 reclaimed by the State and a timetable for the  
14 reclamation. If a timetable cannot be reached, the  
15 State may petition the board for the reclamation, and  
16 the board may grant the petition only to the extent  
17 that it is not possible for the conversion charter  
18 school and the State to jointly occupy or use the  
19 buildings or facilities.

20 (c) Upon receipt of a notice pursuant to section  
21 302A-1151.5(b), the board shall solicit applications from



1 charter schools interested in using and occupying all or  
2 portions of the facilities of the [~~public~~] department school by:

3 (1) Promptly notifying all charter schools that the  
4 [~~public~~] department school is being considered for  
5 closure; and

6 (2) Affording each charter school an opportunity to submit  
7 an application with a written explanation and  
8 justification of why the charter school should be  
9 considered for possible occupancy and use of the  
10 facilities of the [~~public~~] department school.

11 (d) After fully considering each charter school's  
12 application and based on the applications received and on other  
13 considerations, the board shall:

14 (1) Provide a written response to each charter school's  
15 application after each application has been fully  
16 considered;

17 (2) Compile a prioritized list of charter schools; and

18 (3) Make a final determination of which charter school, if  
19 any, shall be authorized to use and occupy the  
20 [~~public~~] department school facilities.

21 (e) Upon the selection of a charter school to use a vacant  
22 department school facility or portion of a department school



1 facility, the department and the charter school's authorizer  
2 shall enter into necessary agreements within ninety days of the  
3 selection to carry out the purposes of this section; provided  
4 that any agreement between the authorizer and the department  
5 shall stipulate that a charter school that uses and occupies a  
6 ~~[public]~~ department school facility or portion of a ~~[public]~~  
7 department school facility shall be responsible for the full or  
8 pro rata share of the repair and maintenance costs for that  
9 facility or portion of the facility, as the case may be.

10 (f) The board shall adopt policies and procedures  
11 necessary to carry out the purposes of this section, including  
12 but not limited to:

- 13 (1) Procedures for charter schools to apply in writing to  
14 use vacant department school facilities;
- 15 (2) Criteria for the board to use in determining which  
16 charter schools to include on the prioritized list to  
17 be submitted to the department; and
- 18 (3) Procedures for the board to notify charter school  
19 applicants that are granted or denied the use of  
20 vacant department school facilities.



1       ~~[(g) For purposes of this section, "public school" means~~  
2 ~~any school that falls within the definition of public schools in~~  
3 ~~section 302A-101, except for charter schools.] "~~

4       SECTION 16. Section 302D-25, Hawaii Revised Statutes, is  
5 amended to read as follows:

6       "~~+~~§302D-25~~+~~   **Applicability of state laws.** (a) Charter  
7 schools shall be exempt from chapters 91 and 92 and all other  
8 state laws in conflict with this chapter, except those  
9 regarding:

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

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

16           (B) The agreements shall be funded from the current  
17           allocation or other sources of revenue received  
18           by the charter school; provided that collective  
19           bargaining increases for employees shall be  
20           allocated by the department of budget and finance  
21           to the charter school's authorizer for  
22           distribution to the charter school; and



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

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

4 (3) Health and safety requirements.

5 (b) Charter schools, the commission, and authorizers shall  
6 be exempt from chapter 103D, but shall develop internal policies  
7 and procedures for the procurement of goods, services, and  
8 construction, consistent with the goals of public accountability  
9 and public procurement practices. Charter schools, the  
10 commission, and authorizers are encouraged to use the provisions  
11 of chapter 103D where possible; provided that the use of one or  
12 more provisions of chapter 103D shall not constitute a waiver of  
13 the exemption from chapter 103D and shall not subject the  
14 charter school, commission, or authorizer to any other provision  
15 of chapter 103D. Charter schools, the commission, and  
16 authorizers shall account for funds expended for the procurement  
17 of goods and services, and this accounting shall be available to  
18 the public.

19 (c) Charter schools and their employees, the commission  
20 and its employees, and governing boards and their members shall  
21 be subject to chapter 84.





1 (d) Any charter school, prior to the beginning of the  
2 school year, may enter into an annual contract with any  
3 department for centralized services to be provided by that  
4 department.

5 (e) Notwithstanding any law to the contrary, as public  
6 schools and entities of the State, a charter school, including  
7 its governing board, the commission, and any authorizer may not  
8 bring suit against any other entity or agency of the State.

9 (f) Charter schools, the commission, and authorizers shall  
10 be exempt from section 302A-1402.

11 (g) For purposes of statutory delegation of authority to  
12 department heads by other state agencies, the executive director  
13 shall be deemed the department head of the commission and  
14 charter schools unless otherwise specifically provided."

15 SECTION 17. Section 302D-26, Hawaii Revised Statutes, is  
16 amended by amending subsection (a) to read as follows:

17 "(a) Civil service employees of department schools shall  
18 retain their civil service status upon the conversion of their  
19 school to a conversion charter school. Positions in a  
20 conversion charter school that would be civil service in a  
21 department [~~public~~] school shall be civil service positions and  
22 subject to chapter 76. An employee with civil service status at



1 a conversion charter school who transfers, is promoted, or takes  
2 a voluntary demotion to another civil service position shall be  
3 entitled to all of the rights, privileges, and benefits of  
4 continuous, uninterrupted civil service. Civil service  
5 employees of a conversion charter school shall have civil  
6 service status in the department's civil service system and  
7 shall be entitled to all rights, privileges, and benefits as  
8 other civil service employees employed by the department.  
9 Exempt employees as provided in section 76-16(b)(11)(B) of a  
10 conversion charter school shall have support services personnel  
11 status in the department's support services personnel system and  
12 shall be entitled to all rights, privileges, and benefits as  
13 other exempt employees employed by the department in their  
14 support services personnel system."

15 SECTION 18. Section 302D-28, Hawaii Revised Statutes, is  
16 amended as follows:

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

18 "(b) Fringe benefit costs for charter school employees,  
19 regardless of the payroll system utilized by a charter school,  
20 shall be included in the department of budget and finance's  
21 annual budget request. No fringe benefit costs shall be charged



1 directly to or deducted from the charter school per-pupil  
2 allocations.

3 The legislature shall make an appropriation based upon the  
4 budget request; provided that the legislature may make  
5 additional appropriations for facility and other costs.

6 The governor, pursuant to chapter 37, may impose  
7 restrictions or reductions on charter school appropriations  
8 similar to those imposed on [~~other public~~] department schools."

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

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



1 reimburse the department for the actual costs of the  
2 administrative services in an amount that shall not exceed six  
3 per cent of the charter school's federal grants and subsidies.

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

15 All additional funds generated by the governing boards,  
16 that are not from a supplemental grant, shall be held separate  
17 from allotted funds and may be expended at the discretion of the  
18 governing boards."

19 3. By amending subsection (f) to read:

20 "(f) To enable charter schools to access state funding  
21 prior to the start of each school year, foster their fiscal  
22 planning, enhance their accountability, and avoid over-



1 allocating general funds to charter schools based on self-  
2 reported enrollment projections, authorizers shall:

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

9 (2) Provide an additional thirty per cent of a charter  
10 school's per-pupil allocation no later than December 1  
11 of each year, based on the October 15 student  
12 enrollment, as reviewed and verified by the  
13 authorizer, only to schools in compliance with all  
14 financial reporting requirements; and

15 (3) Retain no more than the balance of the remaining ten  
16 per cent of a charter school's per-pupil allocation,  
17 as a contingency balance to ensure fiscal  
18 accountability and compliance, no later than June 30  
19 of each year;

20 provided that authorizers may make adjustments in allocations  
21 based on noncompliance with charter contracts and the board may  
22 make adjustments in allocations based on noncompliance with



1 board policies made in the board's capacity as the state  
2 education agency, department directives made in the department's  
3 capacity as the state education agency, the board's  
4 administrative procedures, and board-approved accountability  
5 requirements."

6 SECTION 19. Section 302D-29.5, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "[+]§302D-29.5[+] **Facilities funding.** (a) Beginning with  
9 fiscal year 2014-2015 and each fiscal year thereafter, the  
10 commission may request facilities funding for charter schools as  
11 part of its annual budget request to the director of finance[-]  
12 and may receive, expend, or allocate any funds provided by the  
13 facilities funding request.

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

16 (c) The governor, pursuant to chapter 37, may impose  
17 restrictions or reductions on appropriations for charter schools  
18 similar to those imposed on [~~other public~~] department schools.

19 (d) This section shall not limit the ability of the  
20 director of finance to modify or amend any allotment pursuant to  
21 chapter 37.



1 (e) The commission shall develop criteria to determine the  
2 distribution of funds appropriated pursuant to subsection (b) to  
3 the charter schools. The criteria shall include but not be  
4 limited to distribution based on the need and performance of the  
5 charter schools.

6 (f) Nothing in this section shall be construed as  
7 restricting the authority of the commission to support the  
8 facilities needs of the charter schools through other means."

9 SECTION 20. Section 302D-30, Hawaii Revised Statutes, is  
10 amended by amending subsection (b) to read as follows:

11 "(b) The department shall be responsible for the provision  
12 of a free appropriate public education. Any charter school that  
13 enrolls special education students or identifies one of its  
14 students as eligible for special education shall be responsible  
15 for providing the educational and related services required by a  
16 student's individualized education program. The programs and  
17 services for the student shall be determined collaboratively by  
18 the student's individualized education program team, which  
19 includes the student's parents or legal guardians.

20 If the charter school is unable to provide all of the  
21 required services, then the department shall provide the student  
22 with services as determined by the student's individualized



1 educational program team. The department shall collaborate with  
2 the commission to develop guidelines related to the provision of  
3 special education services and resources to each charter school.  
4 The department shall review all of the current individualized  
5 education programs of special education students enrolled in a  
6 charter school and may offer staff, funding, or both, to the  
7 charter school based upon a per-pupil weighted formula  
8 implemented by the department and used to allocate resources for  
9 special education students in the [~~public~~] department schools."

10 SECTION 21. Section 302D-31, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 "**§302D-31 Athletics.** The department shall provide  
13 students at charter schools, including students enrolled at  
14 charter schools whose curriculum incorporates virtual education,  
15 with the same opportunity to participate in athletics as is  
16 provided to students at [~~other public~~] department schools. If a  
17 student at any charter school wishes to participate in a sport  
18 for which there is no program at the charter school, the  
19 department shall allow that student to participate in a  
20 comparable program [~~of any public school in the complex in which~~  
21 ~~the charter school is located or~~] at the [~~public~~] department  
22 school in the service area in which the student resides. All





1 charter school students participating in athletics shall abide  
2 by all rules, regulations, and policies of the athletic league,  
3 association, and program applicable to the public school in  
4 whose athletic program the student is participating."

5 SECTION 22. Section 302D-32, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "[+]§302D-32[+] Annual audit[-] or financial review. Each  
8 charter school shall annually complete an independent financial  
9 audit that complies with the requirements of its authorizer and  
10 the department[-]; provided that the authorizer shall have the  
11 discretion to allow a financial review in lieu of an independent  
12 financial audit."

13 SECTION 23. Section 302D-34, Hawaii Revised Statutes, is  
14 amended by amending subsections (b) and (c) to read as follows:

- 15 "(b) A start-up charter school:
- 16 (1) Shall be open to any student residing in the State[+] who is entitled to attend a department school;
  - 17 (2) Shall enroll all students who submit an application,  
18 unless the number of students who submit an  
19 application exceeds the capacity of a program, class,  
20 grade level, or building;
  - 21



- 1           (3) Shall select students through a public lottery if, as  
2           described in paragraph (2), capacity is insufficient  
3           to enroll all students who have submitted a timely  
4           application;
- 5           (4) May give an enrollment preference to students within a  
6           given age group or grade level and may be organized  
7           around a special emphasis, theme, or concept as stated  
8           in the charter school's application and as approved by  
9           the charter school's authorizer;
- 10          (5) May give an enrollment preference to students enrolled  
11          in the charter school during the previous school year  
12          and to siblings of students already enrolled at the  
13          charter school; and
- 14          (6) May give any other enrollment preference permitted by  
15          the charter school's authorizer, on an individual  
16          charter school basis, if consistent with law;
- 17 provided that nothing in this subsection shall preclude the  
18 formation of a start-up charter school whose mission is focused  
19 on serving students with disabilities, who are of the same  
20 gender, who pose such severe disciplinary problems that they  
21 warrant a specific educational program, or who are at a risk of  
22 academic failure.



- 1 (c) A conversion charter school shall:
- 2 (1) Enroll any student who resides within the school's
- 3 former geographic service area pursuant to section
- 4 302A-1143, for the grades that were in place when the
- 5 ~~[public]~~ department school converted to a charter
- 6 school; provided that the department may consult with
- 7 a conversion charter school every three years to
- 8 determine whether realignment of the charter school's
- 9 service area is appropriate given population shifts
- 10 and the department's overall service area reviews;
- 11 (2) Follow the department's procedures regarding
- 12 enrollment, including but not limited to geographic
- 13 exceptions and enrollment preferences; and
- 14 (3) Be subject to subsection (b) for grades that were not
- 15 in place when the school converted to a public charter
- 16 school."

17 SECTION 24. Section 302D-2, Hawaii Revised Statutes, is  
 18 repealed.

19 ~~["~~§302D-2~~ Existing charter schools. Any charter school~~

20 ~~holding a charter to operate under part IV, subpart D, of~~

21 ~~chapter 302A, as that subpart existed before July 11, 2006, and~~

22 ~~any charter school holding a charter to operate under chapter~~



1 ~~302B as it existed before June 19, 2012, shall be considered a~~  
2 ~~charter school for the purposes of this chapter under a charter~~  
3 ~~contract with the commission unless the charter contract is~~  
4 ~~revoked, transferred to another authorizer, or not renewed, or~~  
5 ~~the charter school voluntarily closes." ]~~

6 SECTION 25. In codifying the new sections added by section  
7 1 of this Act, the revisor of statutes shall substitute  
8 appropriate section numbers for the letters used in designating  
9 the new sections in this Act.

10 SECTION 26. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 27. This Act shall take effect on July 1, 2030.



**Report Title:**

Education; Charter Schools

**Description:**

Authorizes the State Public Charter School Commission to assess fees on non-state entities and individuals to help offset its operating costs. Establishes pre-opening procedures and requirements for charter applicants. Clarifies that appropriations for the state public charter school commission are separate and in addition to appropriations for charter schools. Makes other amendments to Hawaii's charter school law for clarity and consistency. Effective July 1, 2030. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

