

JAN 17 2014

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- Fees. (a) In administering its
5 responsibilities, the commission may assess fees to help cover
6 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 such fees at any time without
14 regard to chapter 91, if the commission:

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

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



1 §302D- Approved charter applications; start-up period.

2 (a) A charter applicant whose charter application is approved
3 by an authorizer pursuant to section 302D-13 or 302D-14 shall
4 not be allowed to enter into a charter contract until the
5 charter applicant has satisfactorily met pre-opening criteria
6 set by the authorizer. The pre-opening criteria shall ensure
7 that the charter applicant is prepared to successfully open a
8 charter school.

9 (b) An approved charter applicant shall not be considered
10 an entity of the State until the school is established by
11 execution of the charter contract.

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16 shall be considered to have withdrawn its application.

17 (d) An approved charter applicant that withdraws its
18 application shall not be allowed to execute a charter contract
19 unless it reapplies and has its charter application approved by
20 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 a new definition to be appropriately inserted
14 and to read:

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

18 2. By amending the definition of "charter contract" to
19 read:

20 "Charter contract" or "charter" means a fixed-term,
21 bilateral, renewable contract between a public charter school
22 and an authorizer that outlines the roles, powers,



1 responsibilities, and performance expectations for each party to
2 the contract."

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

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

14 4. By amending the definition of "conversion charter
15 school" to read:

16 "Conversion charter school" means:

- 17 (1) Any existing department school that converts to a
18 charter school and is managed and operated in
19 accordance with section 302D-14; or
20 (2) Any existing department school that converts to a
21 charter school and is managed and operated by a



1 nonprofit organization in accordance with
 2 section 302D-14 [~~or~~
 3 ~~(3) A newly created school consisting of programs or~~
 4 ~~sections of existing public school populations that~~
 5 ~~are funded and governed independently and may include~~
 6 ~~part of a separate Hawaiian language immersion program~~
 7 ~~using existing public school facilities]."~~

8 5. By amending the definition of "nonprofit organization"
 9 to read:

10 "Nonprofit organization" means a private, nonprofit, tax-
 11 exempt entity that:

- 12 (1) Is recognized as a tax-exempt organization under
- 13 [~~section 501(c)(3) of~~] the Internal Revenue Code; and
- 14 (2) Is [~~domiciled~~] registered to do business in this
- 15 State[~~-~~] in accordance with chapter 414D."

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

17 [~~"Charter" means a charter application as approved by an~~
 18 ~~authorizer."~~]

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

21 1. By amending subsection (c) to read:



1 "(c) The commission shall consist of nine members to be
2 appointed by the board. The board shall appoint members who
3 will be tasked with authorizing public charter schools that
4 serve the unique and diverse needs of public school students.
5 The chair of the commission shall be designated by the members
6 of the commission for each school year beginning July 1, and
7 whenever there is a vacancy. The board shall consider the
8 combination of abilities, breadth of experiences, and
9 characteristics of the commission, including but not limited to
10 reflecting the diversity of the student population, geographical
11 representation, and a broad representation of education-related
12 stakeholders. The commission shall be exempt from sections
13 26-34 and 26-36."

14 2. By amending subsections (k) and (l) to read:

15 "(k) The commission shall operate with dedicated resources
16 and staff qualified to execute the day-to-day responsibilities
17 of the commission pursuant to this chapter. The legislature
18 shall make an appropriation to the commission separate from, and
19 in addition to, any appropriations made to charter schools
20 pursuant to sections 302D-28 and 302D-29.5.

21 (l) The commission shall have the power to hire staff
22 without regard to chapters 76 and 89. The commission shall



1 determine staff wages, hours, benefits, and other terms and
2 conditions of employment in accordance with chapter 89C."

3 SECTION 5. Section 302D-5, Hawaii Revised Statutes, is
4 amended as follows:

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

6 "(b) An authorizer shall:

7 (1) Act as the point of contact between the department and
8 a public charter school it authorizes [~~and be~~
9 ~~responsible for the administration of all applicable~~
10 ~~state and federal laws~~];

11 (2) Be responsible for and ensure the compliance of a
12 public charter school it authorizes with all
13 applicable state and federal laws, including reporting
14 requirements;

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

18 (4) Be responsible for the receipt of per-pupil funding
19 from the department of budget and finance and
20 distribution of the funding to the public charter
21 school it authorizes."

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



1 "(e) An authorizer, members of the board of an authorizer
2 acting in their official capacity, and employees or agents of an
3 authorizer are immune from civil and criminal liability with
4 respect to all activities related to a public charter school
5 authorized by that authorizer, except for any acts or omissions
6 constituting wilful misconduct. Members of the commission shall
7 be afforded the same protection afforded the members of the
8 board pursuant to section 26-35.5."

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

11 "~~[+]~~§302D-7~~[+]~~ **Authorizer reporting.** Every authorizer
12 shall be required to submit to the board and the legislature an
13 annual report summarizing:

- 14 (1) The authorizer's strategic vision for chartering and
15 progress toward achieving that vision;
- 16 (2) The academic ~~[and financial]~~ performance of all
17 operating public charter schools overseen by the
18 authorizer, according to the performance expectations
19 for public charter schools set forth in this
20 chapter~~[+]~~, including a comparison of the performance
21 of public charter school students with public school
22 students statewide;



- 1 (3) The financial performance of all operating public
2 charter schools overseen by the authorizer, according
3 to the performance expectations for public charter
4 schools set forth in this chapter;
- 5 [~~3~~] (4) The status of the authorizer's public charter
6 school portfolio, identifying all public charter
7 schools in each of the following categories: approved
8 (but not yet open), approved (but withdrawn), not
9 approved, operating, renewed, transferred, revoked,
10 not renewed, or voluntarily closed [~~7~~ ~~or never opened~~];
- 11 [~~4~~] (5) The authorizing functions provided by the
12 authorizer to the public charter schools under its
13 purview, including the authorizer's operating costs
14 and expenses detailed in annual audited financial
15 statements that conform with generally accepted
16 accounting principles;
- 17 [~~5~~] (6) The services purchased from the authorizer by the
18 public charter schools under its purview;
- 19 [~~6~~] (7) A line-item breakdown of the federal funds
20 received by the department and distributed by the
21 authorizer to public charter schools under its
22 control; and



1 ~~[(7)]~~ (8) Any concerns regarding equity and recommendations
2 to improve access to and distribution of federal funds
3 to public charter schools."

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

6 "**§302D-12 Charter school governing boards; powers and**
7 **duties.** (a) No more than one-third of the voting members of a
8 governing board shall be employees of a school or relatives
9 of employees of a school under the jurisdiction of that
10 governing board~~[-]~~ unless at least one year has passed since the
11 conclusion of the employee's employment with the school.

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

14 (1) Provide the governing board with a diversity of
15 perspective and a level of objectivity that accurately
16 represent the interests of the charter school students
17 and the surrounding community;

18 (2) Demonstrate an understanding of best practices of
19 nonprofit governance; and

20 (3) Possess strong financial and academic management and
21 oversight abilities, as well as human resource and
22 fundraising experience.



1 [~~(b)~~] (c) No employee of a charter school or relative of
2 an employee of a charter school may serve as the chair of the
3 governing board of that charter school[+] unless at least one
4 year has elapsed since the conclusion of the employee's
5 employment with the school; provided that an authorizer may
6 grant an exemption from the provisions of this subsection based
7 upon a determination by the authorizer that an exemption is in
8 the best interest of the charter school.

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

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



1 authorizer and the school. The governing board shall have the
2 power to negotiate supplemental collective bargaining agreements
3 with the exclusive representatives of their employees.

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

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

17 (1) Hold meetings open to the public;

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

20 (A) At a publicly accessible area in the governing
21 board's office ~~[and the authorizer's office]~~ so



- 1 as to be available for review during regular
2 business hours; and
- 3 (B) On the governing board's or charter school's
4 internet website [~~, if applicable, and the~~
5 ~~authorizer's internet website~~] not less than six
6 calendar days prior to the public meeting, unless
7 a waiver is granted by the authorizer or
8 authorizer's designee in the case of an
9 emergency; and
- 10 [~~(2)~~] (3) Make available the minutes from public meetings
11 within thirty days and maintain a list of the current
12 names and contact information of the governing board's
13 members and officers:
- 14 (A) In the governing board's office [~~and the~~
15 ~~authorizer's office~~] so as to be available for
16 review during regular business hours; and
- 17 (B) On the governing board's or charter school's
18 internet website [~~, if applicable, and the~~
19 ~~authorizer's internet website~~].
- 20 [~~(f)~~] (h) All charter school employees and members of
21 governing boards shall be subject to chapter 84.



1 ~~[(g)]~~ (i) Governing boards shall be exempt from sections
2 26-34 and 26-36. The State shall afford the governing board of
3 any charter school the same protections as the State affords the
4 board~~[-]~~ in accordance with section 26-35.5.

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

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

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

10 (2) Any person under an employment contract to serve as
11 the chief executive officer, chief administrative
12 officer, executive director, or designated head of a
13 charter school~~[-]~~ ; and

14 (3) Any vendor or contractor providing goods or services
15 to a charter school.

16 "Relative" means a spouse, fiance, or fiancée of the
17 employee; any person who is related to the employee within four
18 degrees of consanguinity; or the spouse, fiance, or fiancée of
19 such person.

20 ~~[(i)]~~ (k) Whenever a charter school or governing board
21 seeks to enter into a contract with a private organization,
22 whether for-profit or nonprofit, to manage or operate the



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

15 SECTION 8. Section 302D-13, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§302D-13 Start-up charter schools; establishment. (a)

18 New start-up charter schools may be established pursuant to this
19 section.

20 (b) Any community, group of teachers, group of teachers
21 and administrators, or nonprofit organization may submit a
22 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 9. 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~~
19 ~~of existing public school populations that are part of a~~
20 ~~separate Hawaiian language immersion program using existing~~
21 ~~public school facilities may submit a letter of intent to an~~



1 ~~authorizer to form a conversion charter school pursuant to this~~
2 ~~section.~~

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

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

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

16 SECTION 10. Section 302D-16, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§302D-16 Performance framework. (a) The performance
19 provisions within the charter contract shall be based on a
20 performance framework that clearly sets forth the academic and
21 operational performance indicators, measures, and metrics that
22 will guide the authorizer's evaluations of each public charter



1 school. The performance framework, as established by the
2 authorizer, shall be designed to ensure that each school meets
3 applicable federal, state, and authorizer expectations, and
4 shall include indicators, measures, and metrics for, at a
5 minimum:

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

19 ~~[(b) Annual performance targets shall be set by each~~
20 ~~public charter school in conjunction with its authorizer, and~~
21 ~~shall be designed to help each school meet applicable federal,~~
22 ~~state, and authorizer expectations.~~



1 ~~(e)~~ (b) The performance framework shall allow the
2 inclusion of additional rigorous, valid, and reliable indicators
3 proposed by a public charter school to augment external
4 evaluations of its performance; provided that the authorizer
5 approves the quality and rigor of such school-proposed
6 indicators, and the indicators are consistent with the purposes
7 of this chapter and the charter contract.

8 ~~(d)~~ (c) The performance framework shall require the
9 disaggregation of all student performance data by major student
10 subgroups [~~, as determined by the board~~].

11 ~~(e)~~ (d) For each public charter school it oversees, the
12 authorizer shall be responsible for [~~managing~~] verifying and
13 either maintaining or having access to all charter school data
14 [~~from assessments in accordance with~~] upon which the performance
15 [~~framework.~~] framework relies.

16 ~~(f)~~ (e) Multiple schools [~~operating under a single~~
17 ~~charter contract or~~] overseen by a single governing board shall
18 be required to report their performance as separate, individual
19 charter schools, and each charter school shall be held
20 independently accountable for its performance."

21 SECTION 11. Section 302D-17, Hawaii Revised Statutes, is
22 amended by amending subsections (d) and (e) to read as follows:



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

7 (1) Requiring a school to develop and execute a corrective
8 action plan within a specified time frame [-]; and

9 (2) Reconstituting the governing board of the charter
10 school; provided that the following conditions are
11 met:

12 (A) Reconstitution occurs only under exigent
13 circumstances, including but not limited to the
14 following:

15 (i) Unlawful or unethical conduct by governing
16 board members;

17 (ii) Unlawful or unethical conduct by the charter
18 school's personnel that raises serious
19 doubts about the governing board's ability
20 to fulfill its statutory, contractual, or
21 fiduciary responsibilities; and



1 (iii) Other circumstances that raise serious
2 doubts about the governing board's ability
3 to fulfill its statutory, contractual, or
4 fiduciary responsibilities;

5 (B) The authorizer shall replace up to, but no more
6 than, the number of governing board members
7 necessary so that the newly appointed members
8 constitute a voting majority in accordance with
9 the governing board's bylaws; except that the
10 authorizer may replace the entire governing board
11 if the alternative is the initiation of
12 revocation of the charter school's charter
13 contract and the governing board opts instead for
14 reconstitution; and

15 (C) Reconstitution occurs in accordance with
16 processes set forth by the authorizer that
17 provide the charter school's personnel and
18 parents with timely notification of the prospect
19 of reconstitution.

20 ~~(e) [If there is an immediate concern for student or~~
21 ~~employee health or safety at a charter school, the authorizer~~
22 ~~may adopt an interim restructuring plan that may include the~~



1 ~~appointment of an interim governing board, a governing board~~
2 ~~chairperson, or a principal to temporarily assume operations of~~
3 ~~the school; provided that if possible without further~~
4 ~~jeopardizing the health or safety of students and employees, the~~
5 ~~charter school's stakeholders and community are first given the~~
6 ~~opportunity to elect a new governing board which shall appoint a~~
7 ~~new interim principal.] The authorizer shall have the authority~~
8 ~~to direct the governing board and the charter school to take~~
9 ~~appropriate action to immediately address serious health and~~
10 ~~safety issues that may exist at a charter school in order to~~
11 ~~ensure the health and safety of students and employees or~~
12 ~~mitigate significant liability to the State.~~

13 The board shall have the authority to direct the authorizer
14 to take appropriate action to immediately address serious health
15 and safety issues that may exist at a charter school in order to
16 ensure the health and safety of students and employees and
17 mitigate significant liability to the State."

18 SECTION 12. Section 302D-21, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§302D-21 Annual board report.** No later than twenty days
21 prior to the convening of each regular session of the
22 legislature, the board shall issue to the governor, the



1 legislature, and the public, an annual report on the State's
2 public charter schools, drawing from the annual reports
3 submitted by every authorizer, as well as any additional
4 relevant data compiled by the board, for the school year ending
5 in the preceding calendar year. The annual report shall
6 include:

7 ~~[(1) A comparison of the performance of public charter~~
8 ~~school students with the performance of comparable~~
9 ~~subgroups of students in public schools governed by~~
10 ~~chapter 302A;~~

11 ~~-(2)]~~ (1) The board's assessment of the successes,
12 challenges, and areas for improvement in meeting the
13 purposes of this chapter, including the board's
14 assessment of the sufficiency of funding for public
15 charter schools, and any suggested changes in state
16 law or policy necessary to strengthen the State's
17 public charter schools;

18 ~~-(3)]~~ (2) A line-item breakdown of all federal funds
19 received by the department and distributed to
20 authorizers;



1 ~~[(4)]~~ (3) Any concerns regarding equity and recommendations
2 to improve access to and distribution of federal funds
3 to public charter schools; and

4 ~~[(5)]~~ (4) A discussion of all board policies adopted in the
5 previous year, including a detailed explanation as to
6 whether each policy is or is not applicable to charter
7 schools."

8 SECTION 13. Section 302D-24, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~[+]§302D-24[+]~~ **Occupancy and use of facilities of**
11 ~~[public]~~ department schools. (a) When the department considers
12 whether to close any particular ~~[public]~~ department school, the
13 department shall submit a notice of possible availability of a
14 ~~[public]~~ department school or notice of vacancy of a ~~[public]~~
15 department school to the board pursuant to section
16 302A-1151.5(b); provided that the department has not elected to
17 use the ~~[public]~~ department school to support education
18 programs.

19 (b) If a charter school exclusively or jointly occupies or
20 uses buildings or facilities of a ~~[public]~~ department school
21 immediately prior to converting to a charter school, upon
22 conversion that charter school shall be given continued



1 exclusive or joint use of the buildings or facilities; provided
2 that:

3 (1) The State may reclaim some or all of the buildings or
4 facilities if it demonstrates a tangible and
5 imperative need for such reclamation; and

6 (2) The State and the conversion charter school
7 voluntarily enter into an agreement detailing the
8 portion of those buildings or facilities that shall be
9 reclaimed by the State and a timetable for the
10 reclamation. If a timetable cannot be reached, the
11 State may petition the board for the reclamation, and
12 the board may grant the petition only to the extent
13 that it is not possible for the conversion charter
14 school and the State to jointly occupy or use the
15 buildings or facilities.

16 (c) Upon receipt of a notice pursuant to section
17 302A-1151.5(b), the board shall solicit applications from
18 charter schools interested in using and occupying all or
19 portions of the facilities of the [~~public~~] department school by:

20 (1) Promptly notifying all charter schools that the
21 [~~public~~] department school is being considered for
22 closure; and



1 (2) Affording each charter school an opportunity to submit
2 an application with a written explanation and
3 justification of why the charter school should be
4 considered for possible occupancy and use of the
5 facilities of the [~~public~~] department school.

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

9 (1) Provide a written response to each charter school's
10 application after each application has been fully
11 considered;

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

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

16 (e) Upon the selection of a charter school to use a vacant
17 department school facility or portion of a department school
18 facility, the department and the charter school's authorizer
19 shall enter into necessary agreements within ninety days of the
20 selection to carry out the purposes of this section; provided
21 that any agreement between the authorizer and the department
22 shall stipulate that a charter school that uses and occupies a



1 [public] department school facility or portion of a [public]
2 department school facility shall be responsible for the full or
3 pro rata share of the repair and maintenance costs for that
4 facility or portion of the facility, as the case may be.

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

8 (1) Procedures for charter schools to apply in writing to
9 use vacant department school facilities;

10 (2) Criteria for the board to use in determining which
11 charter schools to include on the prioritized list to
12 be submitted to the department; and

13 (3) Procedures for the board to notify charter school
14 applicants that are granted or denied the use of
15 vacant department school facilities.

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

19 SECTION 14. Section 302D-26, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) Civil service employees of department schools shall
22 retain their civil service status upon the conversion of their



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

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

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



1 "(b) Fringe benefit costs for charter school employees,
2 regardless of the payroll system utilized by a charter school,
3 shall be included in the department of budget and finance's
4 annual budget request. No fringe benefit costs shall be charged
5 directly to or deducted from the charter school per-pupil
6 allocations.

7 The legislature shall make an appropriation based upon the
8 budget request; provided that the legislature may make
9 additional appropriations for facility and other costs.

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

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

14 "(d) Charter schools shall be eligible for all federal
15 financial support to the same extent as [~~all other public~~]
16 department schools. The department shall provide all
17 authorizers with all state-level federal grant proposals
18 submitted by the department that include charter schools as
19 potential recipients and timely reports on state-level federal
20 grants received for which charter schools may apply or are
21 entitled to receive. Federal funds received by the department
22 for charter schools shall be transferred to authorizers for



1 distribution to the charter schools they authorize in accordance
2 with the federal requirements. If administrative services
3 related to federal grants and subsidies are provided to the
4 charter school by the department, the charter school shall
5 reimburse the department for the actual costs of the
6 administrative services in an amount that shall not exceed six
7 per cent of the charter school's federal grants and subsidies.

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

19 All additional funds generated by the governing 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 governing boards."



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

2 "(f) To enable charter schools to access state funding
3 prior to the start of each school year, foster their fiscal
4 planning, enhance their accountability, and avoid over-
5 allocating general funds to charter schools based on self-
6 reported enrollment projections, authorizers shall:

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

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

19 (3) Retain no more than the balance of the remaining ten
20 per cent of a charter school's per-pupil allocation,
21 as a contingency balance to ensure fiscal



1 accountability and compliance, no later than June 30
2 of each year;
3 provided that authorizers may make adjustments in allocations
4 based on noncompliance with charter contracts and the board may
5 make adjustments in allocations based on noncompliance with
6 board policies made in the board's capacity as the state
7 education agency, department directives made in the department's
8 capacity as the state education agency, the board's
9 administrative procedures, and board-approved accountability
10 requirements."

11 SECTION 16. Section 302D-29.5, Hawaii Revised Statutes, is
12 amended by amending subsection (c) to read as follows:

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

16 SECTION 17. Section 302D-30, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) The department shall be responsible for the provision
19 of a free appropriate public education. Any charter school that
20 enrolls special education students or identifies one of its
21 students as eligible for special education shall be responsible
22 for providing the educational and related services required by a



1 student's individualized education program. The programs and
2 services for the student shall be determined collaboratively by
3 the student's individualized education program team, which
4 includes the student's parents or legal guardians.

5 If the charter school is unable to provide all of the
6 required services, then the department shall provide the student
7 with services as determined by the student's individualized
8 educational program team. The department shall collaborate with
9 the commission to develop guidelines related to the provision of
10 special education services and resources to each charter school.
11 The department shall review all of the current individualized
12 education programs of special education students enrolled in a
13 charter school and may offer staff, funding, or both, to the
14 charter school based upon a per-pupil weighted formula
15 implemented by the department and used to allocate resources for
16 special education students in the [~~public~~] department schools."

17 SECTION 18. Section 302D-31, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§302D-31 Athletics.** The department shall provide
20 students at charter schools, including students enrolled at
21 charter schools whose curriculum incorporates virtual education,
22 with the same opportunity to participate in athletics as is



1 provided to students at [~~other public~~] department schools. If a
2 student at any charter school wishes to participate in a sport
3 for which there is no program at the charter school, the
4 department shall allow that student to participate in a
5 comparable program [~~of any public school in the complex in which~~
6 ~~the charter school is located or~~] at the [~~public~~] department
7 school in the service area in which the student resides. All
8 charter school students participating in athletics shall abide
9 by all rules, regulations, and policies of the athletic league,
10 association, and program applicable to the public school in
11 whose athletic program the student is participating."

12 SECTION 19. Section 302D-34, Hawaii Revised Statutes, is
13 amended by amending subsections (b) and (c) to read as follows:

14 "(b) A start-up charter school:

15 (1) Shall be open to any student residing in the State[+]
16 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 (3) Shall select students through a public lottery if, as
22 described in paragraph (2), capacity is insufficient



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



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

16 SECTION 20. Section 302D-2, Hawaii Revised Statutes, is
17 repealed.

18 ~~["§302D-2] Existing charter schools. Any charter school~~
19 ~~holding a charter to operate under part IV, subpart D, of~~
20 ~~chapter 302A, as that subpart existed before July 11, 2006, and~~
21 ~~any charter school holding a charter to operate under chapter~~
22 ~~302B as it existed before June 19, 2012, shall be considered a~~

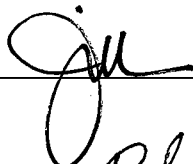

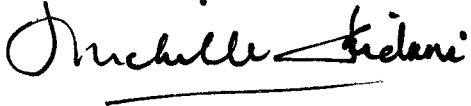



1 ~~charter school for the purposes of this chapter under a charter~~
2 ~~contract with the commission unless the charter contract is~~
3 ~~revoked, transferred to another authorizer, or not renewed, or~~
4 ~~the charter school voluntarily closes."]~~

5 SECTION 21. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 22. This Act shall take effect upon its approval.
8

INTRODUCED BY:



S.B. NO. 2518

Report Title:

Education; Charter Schools

Description:

Authorizes the state public charter school commission to assess fees for help offset its operating costs. Clarifies the legal status of an approved charter applicant. Makes various amendments to the charter school law for clarity and consistency.

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

