
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 non-state
6 entities and individuals to help cover 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16 shall be considered to have withdrawn its application.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 [~~or~~] 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 to read as follows:

5 "§302D-5 Authorizer powers, duties, and liabilities. (a)

6 Authorizers are responsible for executing the following

7 essential powers and duties:

- 8 (1) Soliciting and evaluating charter applications;
- 9 (2) Approving quality charter applications that meet
10 identified educational needs and promote a diversity
11 of educational choices;
- 12 (3) Declining to approve weak or inadequate charter
13 applications;
- 14 (4) Negotiating and executing sound charter contracts with
15 each approved public charter school;
- 16 (5) Monitoring, in accordance with charter contract terms,
17 the performance and legal compliance of public charter
18 schools; and
- 19 (6) Determining whether each charter contract merits
20 renewal, nonrenewal, or revocation.

21 (b) An authorizer shall:



- 1 (1) Act as the point of contact between the department and
2 a public charter school it authorizes [~~and be~~
3 ~~responsible for the administration of all applicable~~
4 ~~state and federal laws~~];
- 5 (2) Be responsible for and ensure the compliance of a
6 public charter school it authorizes with all
7 applicable state and federal laws, including reporting
8 requirements;
- 9 (3) Be responsible for the receipt of applicable federal
10 funds from the department and the distribution of
11 funds to the public charter school it authorizes; and
- 12 (4) Be responsible for the receipt of per-pupil funding
13 from the department of budget and finance and
14 distribution of the funding to the public charter
15 school it authorizes.
- 16 (c) An authorizer may delegate its duties to officers,
17 employees, and contractors.
- 18 (d) Regulation by authorizers shall be limited to the
19 powers and duties set forth in this section, and shall be
20 consistent with the spirit and intent of this chapter.
- 21 (e) An authorizer, members of the board of an authorizer
22 acting in their official capacity, and employees or agents of an



1 authorizer are immune from civil and criminal liability with
2 respect to all activities related to a public charter school
3 authorized by that authorizer, except for any acts or omissions
4 constituting wilful misconduct. Members of the commission shall
5 be afforded the same protection afforded the members of the
6 board pursuant to section 26-35.5.

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

14 (g) An authorizer shall have the power to make and execute
15 contracts and all other instruments necessary or convenient for
16 the exercise of its duties and functions under this chapter."

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

19 "[+]§302D-7[+] **Authorizer reporting.** Every authorizer
20 shall be required to submit to the board and the legislature an
21 annual report summarizing:



- 1 (1) The authorizer's strategic vision for chartering and
2 progress toward achieving that vision;
- 3 (2) The academic [~~and financial~~] performance of all
4 operating public charter schools overseen by the
5 authorizer, according to the performance expectations
6 for public charter schools set forth in this
7 chapter~~[,]~~, including a comparison of the performance
8 of public charter school students with public school
9 students statewide;
- 10 (3) . The financial performance of all operating public
11 charter schools overseen by the authorizer, according
12 to the performance expectations for public charter
13 schools set forth in this chapter;
- 14 [~~(3)~~] (4) The status of the authorizer's public charter
15 school portfolio, identifying all public charter
16 schools and applicants in each of the following
17 categories: approved (but not yet open), approved
18 (but withdrawn), not approved, operating, renewed,
19 transferred, revoked, not renewed, or voluntarily
20 closed~~[, or never opened]~~;
- 21 [~~(4)~~] (5) The authorizing functions provided by the
22 authorizer to the public charter schools under its



1 purview, including the authorizer's operating costs
2 and expenses detailed in annual audited financial
3 statements that conform with generally accepted
4 accounting principles;

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

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

11 [~~7~~] (8) Any concerns regarding equity and recommendations
12 to improve access to and distribution of federal funds
13 to public charter schools."

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

16 **"§302D-12 Charter school governing boards; powers and**
17 **duties.** (a) No more than one-third of the voting members of a
18 governing board shall be employees of a school or relatives
19 of employees of a school under the jurisdiction of that
20 governing board~~[-]~~ unless at least one year has passed since the
21 conclusion of the employee's employment with the school.



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

3 (1) Provide the governing board with a diversity of
4 perspective and a level of objectivity that accurately
5 represent the interests of the charter school students
6 and the surrounding community;

7 (2) Demonstrate an understanding of best practices of
8 nonprofit governance; and

9 (3) Possess strong financial and academic management and
10 oversight abilities, as well as human resource and
11 fundraising experience.

12 [~~b~~] (c) No employee of a charter school or relative of
13 an employee of a charter school may serve as the chair of the
14 governing board of that charter school[+] unless at least one
15 year has elapsed since the conclusion of the employee's
16 employment with the school; provided that an authorizer may
17 grant an exemption from the provisions of this subsection based
18 upon a determination by the authorizer that an exemption is in
19 the best interest of the charter school.

20 (d) Section 78-4 shall not apply to members of governing
21 boards; provided that no governing board member shall be allowed
22 to serve on more than two governing boards simultaneously. For

1 purposes of this subsection, a governing board that governs more
2 than one charter school shall be considered one board.

3 ~~[(e)]~~ (e) The governing board shall be the independent
4 governing body of its charter school and shall have oversight
5 over and be responsible for the financial, organizational, and
6 academic viability of the charter school, implementation of the
7 charter, and the independent authority to determine the
8 organization and management of the school, the curriculum,
9 virtual education, and compliance with applicable federal and
10 state laws. The governing board shall ensure its school
11 complies with the terms of the charter contract between the
12 authorizer and the school. The governing board shall have the
13 power to negotiate supplemental collective bargaining agreements
14 with the exclusive representatives of their employees.

15 ~~[(d)]~~ (f) Governing boards and charter schools shall be
16 exempt from chapter 103D, but shall develop internal policies
17 and procedures for the procurement of goods, services, and
18 construction, consistent with the goals of public accountability
19 and public procurement practices. Governing boards and charter
20 schools are encouraged to use the provisions of chapter 103D
21 wherever possible; provided that the use of one or more
22 provisions of chapter 103D shall not constitute a waiver of the



1 exemption from chapter 103D and shall not subject the charter
2 school to any other provision of chapter 103D.

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

6 (1) Hold meetings open to the public;

7 ~~[(1)]~~ (2) Make available the notices and agendas of public
8 meetings:

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

13 (B) On the ~~[governing board's or]~~ charter school's
14 internet website~~[, if applicable, and the~~
15 ~~authorizer's internet website]~~ not less than six
16 calendar days prior to the public meeting, unless
17 a waiver is granted by the authorizer or
18 authorizer's designee in the case of an
19 emergency; and

20 ~~[(2)]~~ (3) Make available the minutes from public meetings
21 within thirty days and maintain a list of the current



1 names and contact information of the governing board's
2 members and officers:

3 (A) In the [~~governing board's~~] charter school's
4 office [~~and the authorizer's office~~] so as to be
5 available for review during regular business
6 hours; and

7 (B) On the [~~governing board's or~~] charter school's
8 internet website [~~, if applicable, and the~~
9 ~~authorizer's internet website~~].

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

12 [~~g~~] (i) Governing boards shall be exempt from sections
13 26-34 and 26-36. The State shall afford the governing board of
14 any charter school the same protections as the State affords the
15 board[~~-~~] in accordance with section 26-35.5.

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

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

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

21 (2) Any person under an employment contract to serve as
22 the chief executive officer, chief administrative



1 officer, executive director, or designated head of a
2 charter school[-]; and

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

5 "Relative" means a spouse, fiance, or fiancée of the
6 employee; any person who is related to the employee within four
7 degrees of consanguinity; or the spouse, fiance, or fiancée of
8 such person.

9 [-(i)] (k) A governing board shall have the power to make
10 and execute contracts and all other instruments necessary or
11 convenient for the exercise of its duties and functions under
12 this chapter. Whenever a charter school or governing board
13 seeks to enter into a contract with a private organization,
14 whether for-profit or nonprofit, to manage or operate the
15 charter school, which contract requires the private organization
16 to employ or otherwise provide the charter school with an
17 individual to serve in the capacity of the chief executive
18 officer, chief administrative officer, executive director, or
19 designated head of the charter school, the charter school's
20 governing board, in consultation with the state ethics
21 commission, shall adopt standards of conduct that shall apply to
22 the chief executive officer, chief administrative officer,



1 executive director, or designated head of the charter school.
2 The standards of conduct shall include provisions relating to
3 gifts, fair treatment or misuse of position, and conflicts of
4 interest, and shall be incorporated into and made part of any
5 contract or arrangement between the charter school or governing
6 board and the private organization for those services."

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

9 **"§302D-13 Start-up charter schools; establishment. (a)**

10 New start-up charter schools may be established pursuant to this
11 section.

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

17 (c) The start-up charter school charter application
18 process and schedule shall be determined by the authorizer, and
19 shall provide for and include, at a minimum, the following
20 elements:

21 (1) The submission of a letter of intent to operate a
22 start-up 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;
- 5 (4) The timely review of the charter application by the
- 6 authorizer for completeness, and notification by the
- 7 authorizer to the governing board that the charter
- 8 application is complete;
- 9 (5) Upon receipt of a completed charter application, the
- 10 review and evaluation of the charter application by
- 11 qualified persons;
- 12 (6) Following the review and evaluation of a charter
- 13 application, approval or denial of the charter
- 14 application by the authorizer;
- 15 (7) A provision for a final date by which a decision to
- 16 approve or deny a charter application must be made by
- 17 the authorizer, upon receipt of a complete charter
- 18 application; and
- 19 (8) A provision that no start-up charter school may begin
- 20 operation before obtaining authorizer approval of its
- 21 charter application and charter contract and



- 1 fulfilling pre-opening requirements that may be
2 imposed by the authorizer.
- 3 (d) A charter application to become a start-up charter
4 school shall meet the requirements of this subsection and
5 section 302D-25. The charter application shall, at a minimum,
6 include 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) Any applicant whose charter application is denied by~~
7 ~~the authorizer shall not be allowed to amend or resubmit the~~
8 ~~charter application to the authorizer during a given cycle, as~~
9 ~~defined by the authorizer; provided that an applicant shall have~~
10 ~~the right to appeal the authorizer's denial of its charter~~
11 ~~application pursuant to section 302D-15.~~

12 ~~+(f)]~~ (e) In reviewing a charter application under this
13 section, an authorizer shall take into consideration the
14 constitution of the applicant's governing board, terms of
15 governing board members, and the process by which governing
16 board members were selected.

17 ~~+(g)]~~ (f) In reviewing charter applications under this
18 section, an authorizer shall develop a schedule to approve or
19 deny a charter application by the end of the calendar year for
20 purposes of meeting any deadlines to request funding from the
21 legislature."



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

3 **"§302D-14 Conversion charter schools; establishment. (a)**

4 A conversion charter school may be established pursuant to this
5 section.

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

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

- 15 (1) The submission of a letter of intent to convert to a
16 charter school;
- 17 (2) The availability of the charter application form and
18 completion guidelines on the authorizer's website;
- 19 (3) The timely submission of a completed charter
20 application to the authorizer; provided that the
21 charter application shall include certification and
22 documentation that the charter application was



1 approved by a majority of the votes cast by existing
2 administrative, support, and teaching personnel, and
3 parents of students at the existing department school;
4 provided that:

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

10 (B) The balance of stakeholders represented in the
11 vote and the extent of support received in
12 support of the conversion shall be key factors,
13 along with the applicant's proposed plans, to be
14 considered by the authorizer when deciding
15 whether to award a charter; and

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

21 (4) The timely review of the charter application by the
22 authorizer for completeness, and notification by the



- 1 authorizer to the governing board that the charter
2 application is complete;
- 3 (5) Upon receipt of a completed charter application, the
4 review and evaluation of the charter application by
5 qualified persons;
- 6 (6) Following the review and evaluation of a charter
7 application, approval or denial of the charter
8 application by the authorizer;
- 9 (7) A provision for a final date by which a decision of
10 whether to approve or deny a charter application must
11 be made by the authorizer, upon receipt of a complete
12 charter application; and
- 13 (8) A provision that no conversion charter school may
14 begin operation before obtaining authorizer approval
15 of its charter and charter contract and fulfilling
16 pre-opening requirements that may be imposed by the
17 authorizer.
- 18 (d) A charter application to become a conversion charter
19 school shall meet the requirements of this subsection and
20 section 302D-25. The charter application shall include, at a
21 minimum, the following:



- 1 (1) A description of employee rights and management issues
2 and a framework for addressing those issues that
3 protects the rights of employees;
- 4 (2) A plan for identifying, recruiting, and retaining
5 highly qualified instructional faculty, as defined by
6 the department;
- 7 (3) A plan for identifying, recruiting, and selecting
8 students that is not exclusive, elitist, or
9 segregationist, and complies with this chapter;
- 10 (4) The curriculum and instructional framework to be used
11 to achieve student outcomes, including an assessment
12 plan;
- 13 (5) A plan for the assessment of student, administrative
14 support, and teaching personnel performance that:
- 15 (A) Recognizes the interests of the general public;
- 16 (B) Incorporates or exceeds the educational content
17 and performance standards developed by the
18 department for the public school system;
- 19 (C) Includes a system of faculty and staff
20 accountability that holds faculty and staff
21 individually and collectively accountable for
22 their performance, and that is at least



- 1 equivalent to the average system of
2 accountability in public schools throughout the
3 State; and
- 4 (D) Provides for program audits and annual financial
5 audits;
- 6 (6) A governance structure for the charter school that
7 incorporates a conflict of interest policy and a plan
8 for periodic training to carry out the duties of
9 governing board members;
- 10 (7) A description of the constitution of the governing
11 board, terms of governing board members, and the
12 process by which governing board members were
13 selected;
- 14 (8) A financial plan based on the most recent fiscal
15 year's per-pupil charter school allocation that
16 demonstrates the ability to meet the financial
17 obligations of one-time, start-up costs and ongoing
18 costs such as monthly payrolls, faculty recruitment,
19 professional development, and facilities costs; and
- 20 (9) A facilities plan.
- 21 (e) A nonprofit organization may submit a letter of intent
22 to an authorizer to convert a department school to a conversion



1 charter school, operate and manage the school, establish a
2 governing board as its governing body, and develop a charter
3 application pursuant to subsection (d); provided that:

4 (1) As the governing body of the conversion charter
5 school, the governing board shall be the board of
6 directors of the nonprofit organization and shall not
7 be selected pursuant to section 302D-12. The
8 nonprofit organization may also appoint advisory
9 groups of community representatives for each school
10 managed by the nonprofit organization; provided that
11 these groups shall not have governing authority over
12 the school and shall serve only in an advisory
13 capacity to the nonprofit organization;

14 (2) The charter application for each conversion charter
15 school to be operated by the nonprofit organization
16 shall be formulated, developed, and submitted by the
17 nonprofit organization, and shall be approved by a
18 majority of the votes cast by existing administrative,
19 support, and teaching personnel, and parents of
20 students of the existing department school; provided
21 that:



- 1 (A) This vote shall be considered by the authorizer
- 2 to be the primary indication of the existing
- 3 administrative, support, and teaching personnel,
- 4 and parents' approval to convert to a charter
- 5 school;
- 6 (B) The balance of stakeholders represented in the
- 7 vote and the extent of support received in
- 8 support of the conversion shall be a key factor,
- 9 along with the applicant's proposed plans, in an
- 10 authorizer's decision to award a charter; and
- 11 (C) A breakdown of the number of administrative,
- 12 support, and teaching personnel, and parents of
- 13 students who constitute the existing department
- 14 school and the number who actually participated
- 15 in the vote shall be provided to the authorizer;
- 16 (3) The board of directors of the nonprofit organization,
- 17 as the governing body for the conversion charter
- 18 school that it operates and manages, shall have the
- 19 same protections that are afforded to the board in its
- 20 role as the conversion charter school governing body;
- 21 (4) Any conversion charter school that is managed and
- 22 operated by a nonprofit organization shall be eligible



1 for the same federal and state funding as other public
2 schools; provided that nothing in this section shall
3 prohibit a nonprofit organization from making a
4 contribution toward the operation of a conversion
5 charter school; and

6 (5) If, at any time, the board of directors of the
7 nonprofit organization governing the conversion
8 charter school votes to discontinue its relationship
9 with the charter school, the charter school may submit
10 a revised charter application to the authorizer to
11 continue as a conversion charter school without the
12 participation of the nonprofit organization.

13 (f) Any nonprofit organization that seeks to manage or
14 operate a conversion charter school as provided in subsection
15 (e) shall comply with the following at the time of charter
16 application:

17 (1) Have bylaws or policies that describe the manner in
18 which business is conducted and policies that relate
19 to the management of potential conflict of interest
20 situations;

21 (2) Have experience in the management and operation of
22 public or private schools or, to the extent necessary,



- 1 agree to obtain appropriate services from another
2 entity or entities possessing such experience;
- 3 (3) Comply with all applicable federal, state, and county
4 laws, including licensure or accreditation, as
5 applicable; and
- 6 (4) Comply with any other requirements prescribed by the
7 department to ensure adherence with applicable
8 federal, state, and county laws, and the purposes of
9 this chapter.

10 ~~[(g) Any public school or schools, programs, or sections~~
11 ~~of existing public school populations that are part of a~~
12 ~~separate Hawaiian language immersion program using existing~~
13 ~~public school facilities may submit a letter of intent to an~~
14 ~~authorizer to form a conversion charter school pursuant to this~~
15 ~~section.~~

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

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

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

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

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

12 "(a) The performance provisions within the charter
13 contract shall be based on a performance framework that clearly
14 sets forth the academic and operational performance indicators,
15 measures, and metrics that will guide the authorizer's
16 evaluations of each public charter school. The performance
17 framework, as established by the authorizer, shall be designed
18 to ensure that each school meets applicable federal, state, and
19 authorizer expectations, and shall include indicators, measures,
20 and metrics for, at a minimum:

21 (1) Student academic proficiency;

22 (2) Student academic growth;



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

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

13 "(d) The performance framework shall require the
14 disaggregation of all student performance data by major student
15 subgroups [~~as determined by the board~~].

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

21 (f) Multiple schools [~~operating under a single charter~~
22 ~~contract or~~] overseen by a single governing board shall be



1 required to report their performance as separate, individual
2 charter schools, and each charter school shall be held
3 independently accountable for its performance."

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

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

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

14 (2) Reconstituting the governing board of the charter
15 school; provided that the following conditions are
16 met:

17 (A) Reconstitution occurs only under exigent
18 circumstances, including but not limited to the
19 following:

20 (i) Unlawful or unethical conduct by governing
21 board members;



1 (ii) Unlawful or unethical conduct by the charter
2 school's personnel that raises serious
3 doubts about the governing board's ability
4 to fulfill its statutory, contractual, or
5 fiduciary responsibilities; and

6 (iii) Other circumstances that raise serious
7 doubts about the governing board's ability
8 to fulfill its statutory, contractual, or
9 fiduciary responsibilities;

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

20 (C) Reconstitution occurs in accordance with
21 processes set forth by the authorizer that
22 provide the charter school's personnel and



1 parents with timely notification of the prospect
2 of reconstitution.

3 (e) ~~[If there is an immediate concern for student or~~
4 ~~employee health or safety at a charter school, the authorizer~~
5 ~~may adopt an interim restructuring plan that may include the~~
6 ~~appointment of an interim governing board, a governing board~~
7 ~~chairperson, or a principal to temporarily assume operations of~~
8 ~~the school; provided that if possible without further~~
9 ~~jeopardizing the health or safety of students and employees, the~~
10 ~~charter school's stakeholders and community are first given the~~
11 ~~opportunity to elect a new governing board which shall appoint a~~
12 ~~new interim principal.] The authorizer shall have the authority~~
13 to direct the governing board and the charter school to take
14 appropriate action to immediately address serious health and
15 safety issues that may exist at a charter school in order to
16 ensure the health and safety of students and employees or
17 mitigate significant liability to the State.

18 The board shall have the authority to direct the authorizer
19 to take appropriate action to immediately address serious health
20 and safety issues that may exist at a charter school in order to
21 ensure the health and safety of students and employees and
22 mitigate significant liability to the State."



1 SECTION 12. 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 13. 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 [~~publie~~] department school by:

3 (1) Promptly notifying all charter schools that the
4 [~~publie~~] 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 [~~publie~~] 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 [~~publie~~] 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 14. Section 302D-26, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

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



1 shall be entitled to all rights, privileges, and benefits as
2 other exempt employees employed by the department in their
3 support services personnel system."

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

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

7 "(b) Fringe benefit costs for charter school employees,
8 regardless of the payroll system utilized by a charter school,
9 shall be included in the department of budget and finance's
10 annual budget request. No fringe benefit costs shall be charged
11 directly to or deducted from the charter school per-pupil
12 allocations.

13 The legislature shall make an appropriation based upon the
14 budget request; provided that the legislature may make
15 additional appropriations for facility and other costs.

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

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

20 "(d) Charter schools shall be eligible for all federal
21 financial support to the same extent as [~~all other public~~]
22 department schools. The department shall provide all



1 authorizers with all state-level federal grant proposals
2 submitted by the department that include charter schools as
3 potential recipients and timely reports on state-level federal
4 grants received for which charter schools may apply or are
5 entitled to receive. Federal funds received by the department
6 for charter schools shall be transferred to authorizers for
7 distribution to the charter schools they authorize in accordance
8 with the federal requirements. If administrative services
9 related to federal grants and subsidies are provided to the
10 charter school by the department, the charter school shall
11 reimburse the department for the actual costs of the
12 administrative services in an amount that shall not exceed six
13 per cent of the charter school's federal grants and subsidies.

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



1 six per cent of the supplemental grant for which the services
2 are used.

3 All additional funds generated by the governing boards,
4 that are not from a supplemental grant, shall be held separate
5 from allotted funds and may be expended at the discretion of the
6 governing boards."

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

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

13 (1) Provide sixty per cent of a charter school's per-pupil
14 allocation based on the charter school's projected
15 student enrollment no later than July 20 of each
16 fiscal year; provided that the charter school shall
17 have submitted to its authorizer a projected student
18 enrollment no later than May 15 of each year;

19 (2) Provide an additional thirty per cent of a charter
20 school's per-pupil allocation no later than December 1
21 of each year, based on the October 15 student
22 enrollment, as reviewed and verified by the



1 authorizer, only to schools in compliance with all
2 financial reporting requirements; and
3 (3) Retain no more than the balance of the remaining ten
4 per cent of a charter school's per-pupil allocation,
5 as a contingency balance to ensure fiscal
6 accountability and compliance, no later than June 30
7 of each year;
8 provided that authorizers may make adjustments in allocations
9 based on noncompliance with charter contracts and the board may
10 make adjustments in allocations based on noncompliance with
11 board policies made in the board's capacity as the state
12 education agency, department directives made in the department's
13 capacity as the state education agency, the board's
14 administrative procedures, and board-approved accountability
15 requirements."

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

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

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



1 "(b) The department shall be responsible for the provision
2 of a free appropriate public education. Any charter school that
3 enrolls special education students or identifies one of its
4 students as eligible for special education shall be responsible
5 for providing the educational and related services required by a
6 student's individualized education program. The programs and
7 services for the student shall be determined collaboratively by
8 the student's individualized education program team, which
9 includes the student's parents or legal guardians.

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



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

3 "§302D-31 Athletics. The department shall provide
4 students at charter schools, including students enrolled at
5 charter schools whose curriculum incorporates virtual education,
6 with the same opportunity to participate in athletics as is
7 provided to students at [~~other public~~] department schools. If a
8 student at any charter school wishes to participate in a sport
9 for which there is no program at the charter school, the
10 department shall allow that student to participate in a
11 comparable program [~~of any public school in the complex in which~~
12 ~~the charter school is located or~~] at the [~~public~~] department
13 school in the service area in which the student resides. All
14 charter school students participating in athletics shall abide
15 by all rules, regulations, and policies of the athletic league,
16 association, and program applicable to the public school in
17 whose athletic program the student is participating."

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

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

21 (1) Shall be open to any student residing in the State[+] who is entitled to attend a department school;
22



- 1 (2) Shall enroll all students who submit an application,
2 unless the number of students who submit an
3 application exceeds the capacity of a program, class,
4 grade level, or building;
- 5 (3) Shall select students through a public lottery if, as
6 described in paragraph (2), capacity is insufficient
7 to enroll all students who have submitted a timely
8 application;
- 9 (4) May give an enrollment preference to students within a
10 given age group or grade level and may be organized
11 around a special emphasis, theme, or concept as stated
12 in the charter school's application and as approved by
13 the charter school's authorizer;
- 14 (5) May give an enrollment preference to students enrolled
15 in the charter school during the previous school year
16 and to siblings of students already enrolled at the
17 charter school; and
- 18 (6) May give any other enrollment preference permitted by
19 the charter school's authorizer, on an individual
20 charter school basis, if consistent with law;

21 provided that nothing in this subsection shall preclude the
22 formation of a start-up charter school whose mission is focused



1 on serving students with disabilities, who are of the same
2 gender, who pose such severe disciplinary problems that they
3 warrant a specific educational program, or who are at a risk of
4 academic failure.

5 (c) A conversion charter school shall:

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

21 SECTION 20. Section 302D-2, Hawaii Revised Statutes, is
22 repealed.



1 ~~["§302D-2] Existing charter schools. Any charter school~~
2 ~~holding a charter to operate under part IV, subpart D, of~~
3 ~~chapter 302A, as that subpart existed before July 11, 2006, and~~
4 ~~any charter school holding a charter to operate under chapter~~
5 ~~302B as it existed before June 19, 2012, shall be considered a~~
6 ~~charter school for the purposes of this chapter under a charter~~
7 ~~contract with the commission unless the charter contract is~~
8 ~~revoked, transferred to another authorizer, or not renewed, or~~
9 ~~the charter school voluntarily closes."]~~

10 SECTION 21. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 22. This Act shall take effect on July 1, 2014.

13



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. (SD1)

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