



GOV. MSG. NO. 1232

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

June 19, 2012

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

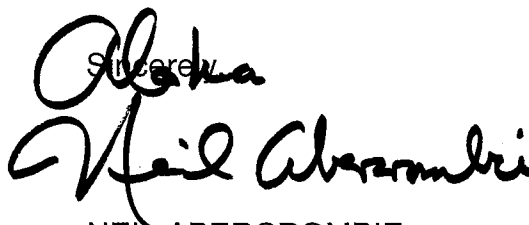
The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on June 19, 2012, the following bill was signed into law:

SB2115 SD2 HD2 CD1

RELATING TO CHARTER SCHOOLS.
Act 130 (12)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor.

on JUN 19 2012

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

S.B. NO. 2115
S.D. 2
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

1 PART I

2 SECTION 1. The legislature finds that the charter school
3 governance, accountability, and authority task force ("task
4 force") was established pursuant to section 7 of Act 130,
5 Session Laws of Hawaii 2011 in response to questions and
6 concerns raised by policy makers and advocates alike about the
7 integrity of Hawaii's charter school governance structure and
8 the overall strength of Hawaii's laws in establishing clear
9 lines of authority that ensured accountability of the charter
10 school system.

11 Specifically, the goal of the task force was to provide
12 clarity to the relationships, responsibilities, and lines of
13 accountability and authority among stakeholders of Hawaii's
14 charter school system, including the board of education,
15 department of education, charter school administrative office,
16 charter school review panel, and local school boards.

17 In conducting its work, the task force looked at various
18 sections of the charter school model law put forth by the

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1 National Alliance for Public Charter Schools and used the model
2 law as a guide in compiling its recommendations to the
3 legislature.

4 The task force was also fortunate to have the assistance
5 and input of the National Association of Charter School
6 Authorizers and the National Governors Association.

7 After in-depth examination and discussion, the task force
8 concluded its work and issued its report and recommendations to
9 the legislature.

10 The purpose of this Act is to adopt the recommendations of
11 the task force by repealing chapter 302B, Hawaii Revised
12 Statutes, and establishing a new charter school law that creates
13 a solid governance structure for Hawaii's charter school system
14 with clear lines of authority and accountability that will
15 foster improved student outcomes.

16 The legislature finds that this Act will support new
17 approaches to education that accommodate the individual needs of
18 students and provide the State with successful templates that
19 can dramatically improve Hawaii's educational standards for the
20 twenty-first century. This Act will create genuine
21 opportunities for communities to implement innovative models of
22 community-based education.



1 PART II

2 SECTION 2. The Hawaii Revised Statutes is amended by
3 adding a new chapter to be appropriately designated and to read
4 as follows:

5 "CHAPTER
6 PUBLIC CHARTER SCHOOLS

7 § -1 **Definitions.** Whenever used in this chapter, unless
8 the context otherwise requires:

9 "Authorizer" means an entity established under this chapter
10 with chartering authority to review charter applications, decide
11 whether to approve or reject charter applications, enter into
12 charter contracts with applicants, oversee public charter
13 schools, and decide whether to authorize, reauthorize, or reject
14 charter contracts. The term may include the commission when
15 appropriate.

16 "Board" means the board of education.

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

19 "Charter application" means a proposal from an applicant to
20 an authorizer to enter into a charter contract whereby the
21 proposed school obtains public charter school status.



1 "Charter contract" means a fixed-term, bilateral, renewable
2 contract between a public charter school and an authorizer that
3 outlines the roles, powers, responsibilities, and performance
4 expectations for each party to the contract.

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

14 "Commission" means the state public charter school
15 commission established pursuant to -3 as a statewide
16 authorizer.

17 "Conversion charter school" means:

18 (1) Any existing department school that converts to a
19 charter school and is managed and operated in
20 accordance with section -14;

21 (2) Any existing department school that converts to a
22 charter school and is managed and operated by a



1 nonprofit organization in accordance with

2 section -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 "Department" means the department of education.

9 "Executive director" means the executive director of the
10 state public charter school commission.

11 "Governing board" means the independent board of a public
12 charter school that is party to the charter contract with the
13 authorizer that:

14 (1) Is responsible for the financial, organizational, and
15 academic viability of the charter school and
16 implementation of the charter;

17 (2) Possesses the independent authority to determine the
18 organization and management of the school, the
19 curriculum, and virtual education;

20 (3) Has the power to negotiate supplemental collective
21 bargaining agreements with exclusive representatives
22 of their employees and is considered the employer of



1 charter school employees for purposes of chapters 76,
2 78, and 89; and

3 (4) Ensures compliance with applicable state and federal
4 laws.

5 "Nonprofit organization" means a private, nonprofit,
6 tax-exempt entity that:

- 7 (1) Is recognized as a tax-exempt organization under
8 section 501(c)(3) of the Internal Revenue Code; and
- 9 (2) Is domiciled in this State.

10 "Organizational viability" means that a charter school:

- 11 (1) Has been duly constituted and operates in accordance
12 with its charter;
- 13 (2) Has a governing board established in accordance with
14 law and the charter school's charter;
- 15 (3) Employs sufficient faculty and staff to provide the
16 necessary educational program and support services to
17 operate the facility in accordance with its charter;
- 18 (4) Maintains accurate and comprehensive records regarding
19 students and employees as determined by its
20 authorizer;
- 21 (5) Meets appropriate standards of student achievement as
22 defined by the board pursuant to its duties under



1 article X, section 3, of the Constitution of the State
2 of Hawaii;

3 (6) Cooperates with board and authorizer requirements in
4 conducting its functions;

5 (7) Complies with applicable federal, state, and county
6 laws and requirements;

7 (8) In accordance with authorizer guidelines and
8 procedures, is financially sound and fiscally
9 responsible in its use of public funds, maintains
10 accurate and comprehensive financial records, operates
11 in accordance with generally accepted accounting
12 practices, and maintains a sound financial plan;

13 (9) Operates within the scope of its charter and fulfills
14 obligations and commitments of its charter;

15 (10) Complies with all health and safety laws and
16 requirements;

17 (11) Complies with all authorizer directives, policies, and
18 procedures; and

19 (12) Complies with all board policies deemed applicable to
20 charter schools by the board.

21 "Start-up charter school" means a new school established
22 under section -13.



1 **§ -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 the enactment of this chapter, shall
6 be considered a charter school for the purposes of this chapter
7 under a charter contract with the commission unless the charter
8 contract is revoked, transferred to another authorizer, or not
9 renewed, or the charter school voluntarily closes.

10 **§ -3 State public charter school commission;**
11 **establishment; appointment.** (a) There is established the state
12 public charter school commission with statewide chartering
13 jurisdiction and authority. The commission shall be placed
14 within the department for administrative purposes only.

15 Notwithstanding section -25 and any law to the contrary, the
16 commission shall be subject to chapter 92.

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

19 (c) The commission shall consist of nine members to be
20 appointed by the board. The board shall appoint members who
21 will be tasked with authorizing public charter schools that
22 serve the unique and diverse needs of public school students.



1 The chair of the commission shall be designated by the members
2 of the commission for each school year beginning July 1, and
3 whenever there is a vacancy. The board shall consider the
4 combination of abilities, breadth of experiences, and
5 characteristics of the commission, including but not limited to
6 reflecting the diversity of the student population, geographical
7 representation, and a broad representation of education-related
8 stakeholders.

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

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

19 (2) Record of integrity, civic virtue, and high ethical
20 standards. Each nominee shall demonstrate integrity,
21 civic virtue, and high ethical standards and be
22 willing to hold fellow commission members to the same;



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

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

8 (e) Each nominee to the commission shall ideally meet the
9 following recommended qualifications:

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

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

21 (f) Five members of the commission shall constitute a
22 quorum to conduct business and a concurrence of at least five



1 members shall be necessary to make any action of the commission
2 valid.

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

7 (1) Three members, including the chairperson, to serve
8 three-year terms;

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

10 (3) Three members to serve one-year terms.

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

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



1 travel expenses incurred in the conduct of official commission
2 business.

3 (j) The commission shall establish operating procedures
4 that shall include conflict of interest procedures for any
5 member whose school of employment or governing board is before
6 the commission.

7 (k) The commission shall operate with dedicated resources
8 and staff qualified to execute the day-to-day responsibilities
9 of the commission pursuant to this chapter.

10 **§ -4 Chartering authority application for eligible**
11 **entities.** (a) The commission created under section -3 may
12 authorize public charter schools anywhere in the State.

13 (b) Governing boards of accredited public and private
14 postsecondary institutions, including community colleges,
15 technical colleges, and four-year universities may apply to the
16 board, pursuant to this section, for statewide, regional, or
17 local chartering authority, in accordance with each
18 institution's regular operating jurisdiction.

19 (c) A county or state agency may apply to the board,
20 pursuant to this section, for chartering authority;

21 (d) Governing boards of non-profit or charitable
22 organizations, which are exempt from federal taxes under section



1 501(c)(3) or 501(c)(6) of the Internal Revenue Code, may apply
2 to the board, and may be granted statewide chartering authority.
3 Nonpublic sectarian or religious organizations and any other
4 charitable organization which in their federal Internal Revenue
5 Service Form 1023, Part IV, describe activities indicating a
6 religious purpose, are not eligible to apply to become an
7 authorizer under this chapter.

8 (e) The board shall establish, through administrative
9 rules, the annual application and approval process for all
10 entities eligible to apply for chartering authority pursuant to
11 this section; provided that the board shall not approve any
12 application for chartering authority until July 1, 2014, or
13 until the board adopts rules, whichever is later. By June 30 of
14 each year, the board shall make available information and
15 guidelines for all eligible entities concerning the opportunity
16 to apply for chartering authority under this chapter. The
17 application process shall require each interested eligible
18 entity to submit an application that clearly explains or
19 presents the following elements:

20 (1) Written notification of intent to serve as an
21 authorizer in accordance with this chapter;



- 1 (2) The applicant entity's strategic vision for
- 2 chartering;
- 3 (3) A plan to support the vision presented, including
- 4 explanation and evidence of the applicant entity's
- 5 budget and personnel capacity and commitment to
- 6 execute the responsibilities of quality charter
- 7 authorizing, in accordance with this chapter;
- 8 (4) A draft or preliminary outline of the request for
- 9 proposals that the applicant entity, if approved as an
- 10 authorizer, would issue to solicit public charter
- 11 school applicants;
- 12 (5) A draft of the performance framework that the
- 13 applicant entity, if approved as an authorizer, would
- 14 use to guide the establishment of a charter contract
- 15 and for ongoing oversight and evaluation of public
- 16 charter schools, consistent with the requirements of
- 17 this chapter;
- 18 (6) A draft of the applicant entity's renewal, revocation,
- 19 and nonrenewal processes, consistent with section
- 20 -18;
- 21 (7) A statement of assurance that the applicant entity
- 22 seeks to serve as an authorizer in fulfillment of the



1 expectations, spirit, and intent of this chapter, and
2 that if approved as an authorizer, the entity will
3 fully participate in any authorizer training provided
4 or required by the State; and

5 (8) A statement of assurance that the applicant will
6 ensure public accountability and transparency in all
7 matters concerning its charter-authorizing practices,
8 decisions, and expenditures.

9 (f) By June 30 of each year, the board shall decide
10 whether to grant or deny chartering authority to each applicant.
11 The board shall make its decisions on the merits of each
12 applicant's proposal and plans.

13 (g) Within sixty days of the board's decision, the board
14 shall execute a renewable authorizing contract with each entity
15 it has approved for chartering authority. The initial term of
16 each authorizing contract shall be six years. The authorizing
17 contract shall specify each approved entity's agreement to serve
18 as an authorizer in accordance with the expectations of this
19 chapter, and shall specify additional performance terms based on
20 the applicant's proposal and plan for chartering. No approved
21 entity shall commence charter authorizing without an authorizing
22 contract in effect.



1 (h) This section shall not apply to the commission.

2 **§ -5 Authorizer powers, duties, and liabilities.** (a)

3 Authorizers are responsible for executing the following
4 essential powers and duties:

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

18 (b) An authorizer shall:

- 19 (1) Act as the point of contact between the department and
20 a public charter school it authorizes and be
21 responsible for the administration of all applicable
22 state and federal laws;



- 1 (2) Be responsible for and ensure compliance of a charter
2 school it authorizes with all applicable state and
3 federal laws, including reporting requirements;
- 4 (3) Be responsible for the receipt of applicable federal
5 funds from the department and the distribution of
6 funds to the public charter school it authorizes; and
- 7 (4) Be responsible for the receipt of per-pupil funding
8 from the department of budget and finance and
9 distribution of the funding to the public charter
10 school it authorizes.
- 11 (c) An authorizer may delegate its duties to officers,
12 employees, and contractors.
- 13 (d) Regulation by authorizers shall be limited to the
14 powers and duties set forth in this section, and shall be
15 consistent with the spirit and intent of this chapter.
- 16 (e) An authorizer, members of the board of an authorizer
17 acting in their official capacity, and employees or agents of an
18 authorizer are immune from civil and criminal liability with
19 respect to all activities related to a public charter school
20 authorized by that authorizer, except for any acts or omissions
21 constituting wilful misconduct.



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

8 § -6 Principles and standards for charter authorizing.

9 All authorizers shall be required to develop and maintain
10 chartering policies and practices consistent with nationally
11 recognized principles and standards for quality charter
12 authorizing in all major areas of authorizing responsibility
13 including:

- 14 (1) Organizational capacity and infrastructure;
- 15 (2) Soliciting and evaluating charter applications;
- 16 (3) Performance contracting;
- 17 (4) Ongoing public charter school oversight and
18 evaluation; and
- 19 (5) Charter and charter contract renewal decision-making.

20 Authorizers shall carry out all their duties under this
21 chapter in a manner consistent with nationally recognized
22 principles and standards and with the spirit and intent of this



1 chapter. Evidence of material or persistent failure to do so
2 shall constitute grounds for losing charter authorizing powers.

3 **§ -7 Authorizer reporting.** Every authorizer shall be
4 required to submit to the board and the legislature an annual
5 report summarizing:

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

8 (2) The academic and financial performance of all
9 operating public charter schools overseen by the
10 authorizer, according to the performance expectations
11 for public charter schools set forth in this chapter;

12 (3) The status of the authorizer's public charter school
13 portfolio, identifying all public charter schools in
14 each of the following categories: approved (but not
15 yet open), not approved, operating, renewed,
16 transferred, revoked, not renewed, voluntarily closed,
17 or never opened;

18 (4) The authorizing functions provided by the authorizer
19 to the public charter schools under its purview,
20 including the authorizer's operating costs and
21 expenses detailed in annual audited financial



- 1 statements that conform with generally accepted
2 accounting principles;
- 3 (5) The services purchased from the authorizer by the
4 public charter schools under its purview;
- 5 (6) A line-item breakdown of the federal funds received by
6 the department and distributed by the authorizer to
7 public charter schools under its control; and
- 8 (7) Any concerns regarding equity and recommendations to
9 improve access to and distribution of federal funds to
10 public charter schools.

11 **§ -8 Conflict of interests.** No employee, trustee,
12 agent, or representative of an authorizer may simultaneously
13 serve as an employee, trustee, agent, representative, vendor, or
14 contractor of a public charter school authorized by that
15 authorizer.

16 **§ -9 Exclusivity of authorizing functions and rights.**
17 No governmental or other entity, other than those expressly
18 granted chartering authority as set forth in this chapter, may
19 assume any charter authorizing function or duty in any form,
20 unless expressly allowed by law.

21 **§ -10 Services purchased from authorizer; itemized**
22 **accounting.** (a) No public charter school shall be required to



1 purchase services from its authorizer as a condition of charter
2 approval or renewal or of executing a charter contract, nor may
3 any such condition be implied.

4 (b) A public charter school may, at its discretion, choose
5 to purchase services from its authorizer. In such event, the
6 public charter school and authorizer shall execute an annual
7 service contract, separate from the charter contract, stating
8 the parties' mutual agreement concerning any services to be
9 provided by the authorizer and any service fees to be charged to
10 the public charter school. An authorizer may not charge more
11 than market rates for services provided to a public charter
12 school.

13 **§ -11 Oversight of public charter school authorizers.**

14 (a) The board shall be responsible for overseeing the
15 performance and effectiveness of all authorizers established
16 under this chapter.

17 (b) In accordance with section -7, every authorizer
18 shall submit to the board and the legislature an annual report.
19 The board shall communicate to every authorizer the requirements
20 for the format, content, and submission of the annual report.

21 (c) Persistently unsatisfactory performance of an
22 authorizer's portfolio of public charter schools, a pattern of



1 well-founded complaints about the authorizer or its public
2 charter schools, or other objective circumstances may trigger a
3 special review by the board. In reviewing or evaluating the
4 performance of authorizers the board shall apply nationally
5 recognized principles and standards for quality charter
6 authorizing. If at any time the board finds that an authorizer
7 is not in compliance with an existing charter contract, its
8 authorizing contract with the board, or the requirements of all
9 authorizers under this chapter, the board shall notify the
10 authorizer in writing of the identified problems, and the
11 authorizer shall have reasonable opportunity to respond to and
12 remedy the problems.

13 (d) If an authorizer persists, after due notice from the
14 board, in violating a material provision of a charter contract
15 or its authorizing contract with the board, or fails to remedy
16 other identified authorizing problems, the board shall notify
17 the authorizer, within a reasonable amount of time under the
18 circumstances, that it intends to revoke the authorizer's
19 chartering authority unless the authorizer demonstrates a timely
20 and satisfactory remedy for the violation or deficiencies.

21 (e) In the event of revocation of any authorizer's
22 chartering authority, the board shall manage the timely and



1 orderly transfer of each charter contract held by that
2 authorizer to another authorizer in the State, with the mutual
3 agreement of each affected public charter school and proposed
4 new authorizer. The new authorizer shall enter into a new
5 charter contract with the charter school for the remainder of
6 the charter term.

7 **§ -12 Charter school governing boards; powers and**
8 **duties.** (a) No more than thirty per cent of the members of a
9 governing board shall be employees of a school or relatives of
10 employees of a school under the jurisdiction of that governing
11 board; provided that the chief executive officer, chief
12 administrative officer, executive director, or otherwise
13 designated head of a charter school may serve as an ex officio,
14 non-voting member of the governing board. In selecting members,
15 consideration shall be given to persons who:

- 16 (1) Provide the governing board with a diversity of
17 perspective and a level of objectivity that accurately
18 represent the interests of the charter school students
19 and the surrounding community;
- 20 (2) Demonstrate an understanding of best practices of non-
21 profit governance; and



1 (3) Possess strong financial and academic management and
2 oversight abilities, as well as human resource and
3 fundraising experience.

4 (b) No employee of a charter school or relative of an
5 employee of a charter school may serve as the chair of the
6 governing board of that charter school; provided that an
7 authorizer may grant an exemption from the provisions of this
8 subsection based upon a determination by the authorizer that an
9 exemption is in the best interest of the charter school.

10 (c) The governing board shall be the independent governing
11 body of its charter school and shall have oversight over and be
12 responsible for the financial, organizational, and academic
13 viability of the charter school, implementation of the charter,
14 and the independent authority to determine the organization and
15 management of the school, the curriculum, virtual education, and
16 compliance with applicable federal and state laws. The
17 governing board shall ensure its school complies with the terms
18 of the charter contract between the authorizer and the school.
19 The governing board shall have the power to negotiate
20 supplemental collective bargaining agreements with the exclusive
21 representatives of their employees.



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

11 (e) Charter schools and their governing boards shall be
12 exempt from the requirements of chapters 91 and 92. The
13 governing boards shall:

14 (1) Make available the notices and agendas of public
15 meetings:

16 (A) At a publicly accessible area in the governing
17 board's office and the authorizer's office so as
18 to be available for review during regular
19 business hours; and

20 (B) On the governing board's or charter school's
21 internet website, if applicable, and the
22 authorizer's internet website not less than six



1 calendar days prior to the public meeting, unless
2 a waiver is granted by the authorizer or
3 authorizer's designee in the case of an
4 emergency; and

5 (2) Make available the minutes from public meetings within
6 thirty days and maintain a list of the current names
7 and contact information of the governing board's
8 members and officers:

9 (A) In the governing board's office and the
10 authorizer's office so as to be available for
11 review during regular business hours; and

12 (B) On the governing board's or charter school's
13 internet website, if applicable, and the
14 authorizer's internet website.

15 (f) All charter school employees and members of governing
16 boards shall be subject to chapter 84.

17 (g) The State shall afford the governing board of any
18 charter school the same protections as the State affords the
19 board.

20 (h) For purposes of this section, "employees" shall
21 include the chief executive officer, chief administrative



1 officer, executive director, or otherwise designated head of a
2 charter school.

3 § -13 Start-up charter schools; establishment. (a) New
4 start-up charter schools may be established pursuant to this
5 section.

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

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

- 14 (1) The submission of a letter of intent to operate a
15 start-up charter school;
- 16 (2) The timely transmittal of the charter application form
17 and completion guidelines to the governing board;
- 18 (3) The timely submission of a completed charter
19 application to the authorizer;
- 20 (4) The timely review of the charter application by the
21 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 convening of the commission, if applicable, by the
5 commission chairperson to begin review of the charter
6 application;

7 (6) Following the submission of a charter application,
8 issuance of a charter or denial of the charter
9 application by the authorizer or if submitted to the
10 commission, by majority vote;

11 (7) A provision for a final date by which a decision must
12 be made, upon receipt of a complete charter
13 application; and

14 (8) A provision that no start-up charter school may begin
15 operation before obtaining authorizer approval of its
16 charter application and charter contract.

17 (d) A charter application to become a start-up charter
18 school shall meet the requirements of this subsection and
19 section -25. The charter application shall include the
20 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;
- 6 (3) A plan for identifying, recruiting, and selecting
7 students that is not exclusive, elitist, or
8 segregationist;
- 9 (4) The curriculum and instructional framework to be used
10 to achieve student outcomes, including an assessment
11 plan;
- 12 (5) A plan for the assessment of student, administrative
13 support, and teaching personnel performance that:
 - 14 (A) Recognizes the interests of the general public;
 - 15 (B) Incorporates or exceeds the educational content
16 and performance standards developed by the
17 department for the public school system;
 - 18 (C) Includes a system of faculty and staff
19 accountability that holds faculty and staff
20 individually and collectively accountable for
21 their performance, and that is at least
22 equivalent to the average system of



1 accountability in public schools throughout the
2 State; and

3 (D) Provides for program audits and annual financial
4 audits;

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

9 (7) A description of the constitution of the governing
10 board, terms of governing board members, and the
11 process by which governing board members were
12 selected;

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

19 (9) A facilities plan.

20 (e) Any applicant whose charter application is denied by
21 the authorizer shall not be allowed to amend or resubmit the
22 charter application to the authorizer during a given cycle, as



1 defined by the authorizer; provided that an applicant shall have
2 the right to appeal the authorizer's denial of its charter
3 application pursuant to section -15.

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

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

14 **§ -14 Conversion charter schools; establishment.** (a) A
15 conversion charter school may be established pursuant to this
16 section.

17 (b) Any department school, school community council, group
18 of teachers, group of teachers and administrators, or nonprofit
19 organization may submit a letter of intent to an authorizer to
20 convert a department school to a charter school, establish a
21 governing board as its governing body, and develop a charter
22 application pursuant to subsection (d).



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

4 (1) The submission of a letter of intent to convert to a
5 charter school;

6 (2) The timely transmittal of the charter application form
7 and completion guidelines to the governing board;

8 (3) The timely submission of a completed charter
9 application to the authorizer; provided that the
10 charter application shall include certification and
11 documentation that the charter application was
12 approved by a majority of the votes cast by existing
13 administrative, support, teaching personnel, and
14 parents of students at the existing department school;
15 provided that:

16 (A) This vote shall be considered by the authorizer
17 to be the primary indication of the existing
18 administrative, support, and teaching personnel,
19 and parents' approval to convert to a charter
20 school;

21 (B) The balance of stakeholders represented in the
22 vote and the broad support received in support of



- 1 the conversion shall be a key factor in an
2 authorizer's decision to award a charter; and
- 3 (C) A breakdown of the number of administrative,
4 support, and teacher personnel, and parents that
5 actually participated in the vote shall be
6 provided to the authorizer;
- 7 (4) The timely review of the charter application by the
8 authorizer for completeness, and notification by the
9 authorizer to the governing board that the charter
10 application is complete;
- 11 (5) Upon receipt of a completed charter application, the
12 convening of the commission, if applicable, by the
13 commission chairperson to begin review of the charter
14 application;
- 15 (6) Following the submission of a charter application,
16 issuance of a charter or denial of the charter
17 application by the authorizer or if submitted to the
18 commission, by majority vote;
- 19 (7) A provision for a final date by which a decision must
20 be made upon receipt of a complete charter
21 application; and



1 (8) A provision that no conversion charter school may
2 begin operation before obtaining authorizer approval
3 of its charter and charter contract.

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

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

11 (2) A plan for identifying, recruiting, and retaining
12 highly qualified instructional faculty;

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

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 -12. The nonprofit
15 organization may also appoint advisory groups of
16 community representatives for each school managed by
17 the nonprofit organization; provided that these groups
18 shall not have governing authority over the school and
19 shall serve only in an advisory capacity to the
20 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 the
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 broad support received in support of
14 the conversion shall be a key factor in an
15 authorizer's decision to award a charter; and

16 (C) A breakdown of the number of administrative,
17 support, and teacher personnel, and parents that
18 actually participated in the vote shall be
19 provided to the authorizer;

20 (3) The board of directors of the nonprofit organization,
21 as the governing body for the conversion charter
22 school that it operates and manages, shall have the



1 same protections that are afforded to the board in its
2 role as the conversion charter school governing body;
3 (4) Any conversion charter school that is managed and
4 operated by a nonprofit organization shall be eligible
5 for the same federal and state funding as other public
6 schools; provided that the nonprofit organization
7 makes a minimum annual contribution of \$1 per pupil
8 toward the operation of a conversion charter school
9 for every \$4 per pupil allocated by the department of
10 budget and finance for the operation of the conversion
11 charter school; provided further that in no event
12 shall the nonprofit organization be required to
13 contribute more than the total required contribution
14 per pupil per year. As used in this paragraph, "total
15 required contribution" means:

16 (A) \$1,650 for school years 2012-2013 through 2015-
17 2016; and

18 (B) \$1,815 for school years 2016-2017 through 2020-
19 2021; and

20 (5) If, at any time, the board of directors of the
21 nonprofit organization governing the conversion
22 charter school votes to discontinue its relationship



1 with the charter school, the charter school may submit
2 a revised charter application to the authorizer to
3 continue as a conversion school without the
4 participation of the nonprofit organization.

5 (f) Any nonprofit organization that seeks to manage or
6 operate a conversion charter school as provided in subsection
7 (e) shall comply with the following at the time of charter
8 application:

9 (1) Have bylaws or policies that describe the manner in
10 which business is conducted and policies that relate
11 to the management of potential conflict of interest
12 situations;

13 (2) Have experience in the management and operation of
14 public or private schools or, to the extent necessary,
15 agree to obtain appropriate services from another
16 entity or entities possessing such experience;

17 (3) Comply with all applicable federal, state, and county
18 laws, including licensure or accreditation, as
19 applicable; and

20 (4) Comply with any other requirements prescribed by the
21 department to ensure adherence with applicable



1 federal, state, and county laws, and the purposes of
2 this chapter.

3 (g) Any public school or schools, programs, or sections of
4 existing public school populations that are part of a separate
5 Hawaiian language immersion program using existing public school
6 facilities may submit a letter of intent to an authorizer to
7 form a conversion charter school pursuant to this section.

8 (h) In reviewing a charter application for a charter under
9 this section, an authorizer shall take into consideration the
10 constitution of the applicant's governing board, terms of
11 governing board members, and the process by which governing
12 board members were selected.

13 (i) In the event of a conflict between the provisions in
14 this section and other provisions in this chapter, this section
15 shall control.

16 (j) Any applicant whose charter application is denied by
17 the authorizer shall not be allowed to amend or resubmit the
18 charter application to the authorizer during a given cycle, as
19 defined by the authorizer, except as provided in subsection
20 (e) (5); provided that an applicant shall have the right to
21 appeal the authorizer's denial of its charter application
22 pursuant to section -15.



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

6 § -15 Appeals; charter applications, reauthorizations,
7 or revocations. The board shall have the power to decide
8 appeals of decisions by an authorizer to deny the approval of a
9 charter application, deny reauthorization of a charter school,
10 or revoke a charter school's charter. An appeal shall be filed
11 with the board within twenty-one calendar days of the receipt of
12 the notification of denial or revocation. Only a party whose
13 charter application has been denied, whose reauthorization has
14 been denied, or whose charter has been revoked may initiate an
15 appeal under this section for cause. The board shall review an
16 appeal and issue a final decision within sixty calendar days of
17 the filing of the appeal. The board may adopt applicable rules
18 and procedures pursuant to chapter 91 for implementing the
19 appeals process.

20 § -16 Performance framework. (a) The performance
21 provisions within the charter contract shall be based on a
22 performance framework that clearly sets forth the academic and



1 operational performance indicators, measures, and metrics that
2 will guide the authorizer's evaluations of each public charter
3 school. The performance framework, as established by the
4 authorizer, shall include indicators, measures, and metrics for,
5 at a 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) Recurrent enrollment from year to year;
- 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 public
20 charter school in conjunction with its authorizer, and shall be
21 designed to help each school meet applicable federal, state, and
22 authorizer expectations.



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

8 (d) The performance framework shall require the
9 disaggregation of all student performance data by major student
10 subgroups, including gender, race, poverty status, special
11 education status, English as a second language status, and
12 gifted and talented status.

13 (e) For each public charter school it oversees, the
14 authorizer shall be responsible for managing all data from
15 assessments in accordance with the performance framework.

16 (f) Multiple schools operating under a single charter
17 contract or overseen by a single governing board shall be
18 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 **§ -17 Ongoing oversight and corrective actions.** (a) An
22 authorizer shall continually monitor the performance and legal



1 compliance of the public charter schools it oversees, including
2 collecting and analyzing data to support ongoing evaluation
3 according to the charter contract. Every authorizer shall have
4 the authority to conduct or require oversight activities that
5 enable the authorizer to fulfill its responsibilities under this
6 chapter, including conducting appropriate inquiries and
7 investigations, so long as those activities are consistent with
8 the intent of this chapter and adhere to the terms of the
9 charter contract.

10 (b) Each authorizer shall annually publish and provide, as
11 part of its annual report to the board and the legislature, a
12 performance report for each public charter school it oversees,
13 in accordance with the performance framework set forth in the
14 charter contract and section -16. The authorizer shall
15 require each public charter school it oversees to submit an
16 annual report to assist the authorizer in gathering complete
17 information about each school. The annual report shall include
18 the status of the charter school's compliance with annual
19 performance targets, as determined by the charter contract.

20 (c) In the event that a public charter school's
21 performance or legal compliance appears unsatisfactory, the
22 authorizer shall promptly notify the public charter school of



1 the perceived problem and provide reasonable opportunity for the
2 charter school to remedy the problem, unless the problem
3 warrants revocation in which case the revocation timeframes set
4 forth in section -18 shall apply.

5 (d) Notwithstanding section -18 to the contrary, every
6 authorizer shall have the authority to take appropriate
7 corrective actions or exercise sanctions short of revocation in
8 response to apparent deficiencies in public charter school
9 performance or legal compliance. Such actions or sanctions may
10 include, if warranted, requiring a school to develop and execute
11 a corrective action plan within a specified timeframe.

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



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

6 § -18 **Renewals, revocations, and nonrenewals.** (a) A
7 charter contract may be renewed for successive five-year terms
8 of duration, although an authorizer may vary the terms based on
9 performance, demonstrated capacities, and particular
10 circumstances of each charter school. An authorizer may grant a
11 renewal of a charter contract with specific conditions for
12 necessary improvements to a charter school.

13 (b) No later than September 1, the authorizer shall issue
14 a charter school performance report and charter contract renewal
15 application guidance to any charter school whose charter
16 contract will expire the following year. The performance report
17 shall summarize the charter school's performance record to date,
18 based on the data required by this chapter and the charter
19 contract, and shall provide notice of any weaknesses or concerns
20 perceived by the authorizer concerning the charter school that
21 may jeopardize its position in seeking renewal if not timely
22 rectified. The charter school shall have thirty days to respond



1 to the performance report and submit any corrections or
2 clarifications for the report.

3 (c) The renewal application guidance shall, at a minimum,
4 provide an opportunity for the public charter school to:

5 (1) Present additional evidence, beyond the data contained
6 in the performance report, supporting its case for
7 charter renewal;

8 (2) Describe improvements undertaken or planned for the
9 school; and

10 (3) Detail the charter school's plans for the next charter
11 term.

12 (d) The renewal application guidance shall include or
13 refer explicitly to the criteria that will guide the
14 authorizer's renewal decisions, which shall be based on the
15 charter contract and be consistent with this chapter.

16 (e) No later than March 1, the governing board of a
17 charter school seeking renewal shall submit a renewal
18 application to the authorizer pursuant to the renewal guidance
19 issued by the authorizer. The authorizer shall decide whether
20 or not to renew the charter no later than forty-five days after
21 the filing of the renewal application.



1 (f) In making charter renewal decisions, every authorizer
2 shall:

3 (1) Ground its decisions in evidence of the school's
4 performance over the term of the charter contract in
5 accordance with the performance framework set forth in
6 the charter contract;

7 (2) Ensure that data used in making the renewal decisions
8 are available to the charter school and the public;
9 and

10 (3) Provide a public report summarizing the evidence and
11 basis for each decision.

12 (g) A charter contract may be revoked at any time or not
13 renewed if the authorizer determines that the charter school did
14 any of the following or otherwise failed to comply with the
15 provisions of this chapter:

16 (1) Committed a material and substantial violation of any
17 of the terms, conditions, standards, or procedures
18 required under this chapter or the charter contract;

19 (2) Failed to meet or make sufficient progress toward
20 performance expectations set forth in the contract;

21 (3) Failed to meet generally accepted standards of fiscal
22 management; or



- 1 (4) Substantially violated any material provision of law
2 from which the charter school is not exempted.
- 3 (h) An authorizer shall develop revocation and non-renewal
4 processes that:
- 5 (1) Provide the charter holders with a timely notification
6 of the prospect of revocation or non-renewal and the
7 reasons for such possible closure;
- 8 (2) Allow the charter holders a reasonable amount of time
9 in which to prepare a response;
- 10 (3) Provide the charter holders with an opportunity to
11 submit documents and give testimony challenging the
12 rationale for closure and supporting the continuation
13 of the school at an orderly proceeding held for that
14 purpose;
- 15 (4) Allow charter holders access to representation by
16 counsel, subject to section 28-8.3, and to call
17 witnesses on their behalf;
- 18 (5) Permit the recording of proceedings described in
19 paragraph (3); and
- 20 (6) After a reasonable period for deliberation, require a
21 final determination to be made and conveyed in writing
22 to the charter holders.



1 (i) If an authorizer revokes or does not renew a charter,
2 the authorizer shall clearly state in writing the reasons for
3 the revocation or nonrenewal.

4 (j) Within fifteen days of taking action to renew, not
5 renew, or revoke a charter, the authorizer shall report to the
6 board the action taken, and shall simultaneously provide a copy
7 of the report to the charter school. The report shall set forth
8 the action taken and reasons for the decision and assurances as
9 to compliance with all the requirements set forth in this
10 chapter.

11 § -19 School closure and dissolution. (a) Prior to any
12 public charter school closure decision, an authorizer shall have
13 developed a public charter school closure protocol to ensure
14 timely notification to parents, orderly transition of students
15 and student records to new schools, and proper disposition of
16 school funds, property, and assets in accordance with the
17 requirements of this chapter. The protocol shall specify tasks,
18 timelines, and responsible parties, including delineating the
19 respective duties of the school and the authorizer. In the
20 event of a public charter school closure for any reason, the
21 authorizer shall oversee and work with the closing school to



1 ensure a smooth and orderly closure and transition for students
2 and parents, as guided by the closure protocol.

3 (b) In the event of a public charter school closure for
4 any reason, the assets of the school, excluding facilities,
5 shall be distributed first to satisfy outstanding payroll
6 obligations for employees of the school, then to creditors of
7 the school, and then to the state treasury to the credit of the
8 general fund. If the assets of the school are insufficient to
9 pay all parties to whom the school owes compensation, the
10 prioritization of the distribution of assets may be determined
11 by decree of a court of law.

12 (c) In the event of a public charter school closure for
13 any reason, if the public charter school received an
14 appropriation for capital improvements to its facilities, the
15 charter school or its authorizer shall negotiate with the
16 expending agency for a lump sum or installment repayment to the
17 State of the amounts appropriated. This restriction shall be
18 registered, recorded, and indexed in the bureau of conveyances
19 or with the assistant registrar of the land court as an
20 encumbrance on the property. Amounts received from the
21 repayment under this subsection shall be deposited into the
22 general fund.



1 (d) In the event of a public charter school closure for
2 any reason, other public charter schools shall have the right of
3 first refusal for the closed public charter school's facilities,
4 if the facilities are owned by the State. If no other public
5 charter school exercises the right of first refusal, the
6 facilities shall revert back to the department and the State.

7 **§ -20 Charter transfers.** (a) Transfer of a charter
8 contract, and of oversight of that public charter school, from
9 one authorizer to another before the expiration of the charter
10 term shall not be permitted except by special petition to the
11 board by a public charter school or its authorizer. The board
12 shall review such petitions on a case-by-case basis and may
13 grant transfer requests in response to special circumstances and
14 evidence that such a transfer would serve the best interests of
15 the public charter school's students.

16 (b) The board may adopt rules pursuant to chapter 91 to
17 carry out the purposes of this section.

18 **§ -21 Annual board report.** No later than twenty days
19 prior to the convening of each regular session of the
20 legislature, the board shall issue to the governor, the
21 legislature, and the public, an annual report on the State's
22 public charter schools, drawing from the annual reports



1 submitted by every authorizer as well as any additional relevant
2 data compiled by the board, for the school year ending in the
3 preceding calendar year. The annual report shall include:

4 (1) A comparison of the performance of public charter
5 school students with the performance of academically,
6 ethnically, geographically, and economically
7 comparable groups of students in public schools
8 governed by chapter 302A;

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

15 (3) A line-item breakdown of all federal funds received by
16 the department and distributed to authorizers;

17 (4) Any concerns regarding equity and recommendations to
18 improve access to and distribution of federal funds to
19 public charter schools; and

20 (5) A discussion of all board policies adopted in the
21 previous year, including a detailed explanation as to

1 whether each policy is or is not applicable to charter
2 schools.

3 **§ -22 Board as final arbitrator.** (a) The board shall
4 serve as the final arbitrator of those appeals listed in section
5 -15.

6 (b) A party shall not be entitled to a hearing before the
7 board under this section until it has exhausted all available
8 administrative remedies.

9 (c) The board shall adopt applicable rules and procedures
10 pursuant to chapter 91 for implementing this section.

11 **§ -23 Minimum educational data reporting standards.** The
12 board shall establish educational reporting standards that shall
13 include minimum standards for reporting fiscal, personnel, and
14 student data, by means of electronic transfer of data files from
15 charter schools to the department. The minimum standards
16 established by the board shall include but not be limited to
17 data required for the department, as the state education agency,
18 to meet all applicable federal reporting requirements.

19 **§ -24 Occupancy and use of facilities of public schools.**

20 (a) When the department considers whether to close any
21 particular public school, the department shall submit a notice
22 of possible availability of a public school or notice of vacancy



1 of a public school to the board pursuant to section
2 302A-1151.5(b); provided that the department has not elected to
3 use the public school to support education programs.

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

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

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



1 (c) Upon receipt of a notice pursuant to section
2 302A-1151.5(b), the board shall solicit applications from
3 charter schools interested in using and occupying all or
4 portions of the facilities of the public school by:

5 (1) Promptly notifying all charter schools that the public
6 school is being considered for closure; and

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

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

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

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

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



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

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

- 14 (1) Procedures for charter schools to apply in writing to
15 use vacant school facilities;
- 16 (2) Criteria for the board to use in determining which
17 charter schools to include on the prioritized list to
18 be submitted to the department; and
- 19 (3) Procedures for the board to notify charter school
20 applicants that are granted or denied the use of
21 vacant 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 **§ -25 Applicability of state laws.** (a) Charter schools
5 shall be exempt from chapters 91 and 92 and all other state laws
6 in conflict with this chapter, except those regarding:

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

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

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

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

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



1 (3) Health and safety requirements.

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

16 (c) Charter schools and their employees, the commission
17 and its employees, and governing boards and their members shall
18 be subject to chapter 84.

19 (d) Any charter school, prior to the beginning of the
20 school year, may enter into an annual contract with any
21 department for centralized services to be provided by that
22 department.



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

5 **§ -26 Civil service status; employee rights.** (a) Civil
6 service employees of department schools shall retain their civil
7 service status upon the conversion of their school to a
8 conversion charter school. Positions in a conversion charter
9 school that would be civil service in a department public school
10 shall be civil service positions and subject to chapter 76. An
11 employee with civil service status at a conversion charter
12 school who transfers, is promoted, or takes a voluntary demotion
13 to another civil service position shall be entitled to all of
14 the rights, privileges, and benefits of continuous,
15 uninterrupted civil service. Civil service employees of a
16 conversion charter school shall have civil service status in the
17 department's civil service system and shall be entitled to all
18 rights, privileges, and benefits as other civil service
19 employees employed by the department. Exempt employees as
20 provided in section 76-16(b)(11)(B) of a conversion charter
21 school shall have support services personnel status in the
22 department's support services personnel system and shall be



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

4 (b) The State shall afford administrative, support, and
5 instructional employees in charter schools full participation in
6 the State's systems for retirement, workers' compensation,
7 unemployment insurance, temporary disability insurance, and
8 health benefits in accordance with the qualification
9 requirements for each.

10 (c) The department, to the extent possible, shall provide
11 its position listings to authorizers and any interested
12 governing board of any charter school.

13 (d) The department, in conjunction with authorizers, shall
14 facilitate the movement of instructional personnel between the
15 department and charter schools; provided that:

16 (1) Comparable and verifiable professional development and
17 employee evaluation standards and practices, as
18 determined and certified by the authorizers, are in
19 place in charter schools for instructional staff;

20 (2) Licensed charter school teachers, as determined by the
21 Hawaii teacher standards board, who are not yet
22 tenured in the department and are entering or



1 returning to the department after full-time employment
2 of no less than one full school year at a charter
3 school, shall be subject to no more than one year of
4 probationary status; and

5 (3) Tenured department licensed teachers, as determined by
6 the department, who transfer to charter schools shall
7 not be required to serve a probationary period.

8 (e) The department shall establish a process that permits
9 employees of department public schools that become conversion
10 charter schools pursuant to section -14 to transfer to a
11 department public school governed by chapter 302A.

12 **§ -27 Administration of workers' compensation.** The
13 department of human resources development shall administer
14 workers' compensation claims for employees of charter schools,
15 who shall be covered by the same self-insured workers'
16 compensation system as other public employees. The department
17 of human resources development shall process, investigate, and
18 make payments on claims; provided that:

19 (1) Charter schools shall compile the preliminary claim
20 form and forward it to the department of human
21 resources development; and



1 (2) The department of human resources development shall
2 receive no more than 0.07 per cent of the EDN 600
3 appropriation to process these workers' compensation
4 claims.

5 § -28 Funding and finance. (a) Beginning with fiscal
6 year 2012-2013, and each fiscal year thereafter, the non-
7 facility general fund per-pupil funding request for charter
8 school students shall be the same as the general fund per-pupil
9 amount to the department in the most recently approved executive
10 budget recommendation for the department and shall be based upon
11 reasonable projected enrollment figures for all charter schools.
12 The general fund per-pupil request for each regular education
13 and special education student shall:

14 (1) Include all general fund regular education cost
15 categories, including comprehensive school support
16 services, but excluding special education services,
17 adult education, and the after-school plus program;
18 provided that these services are provided and funded
19 by the department; and

20 (2) Exclude fringe benefit costs and debt service.

21 (b) Fringe benefit costs for charter school employees,
22 regardless of the payroll system utilized by a charter school,

1 shall be included in the department of budget and finance's
2 annual budget request. No fringe benefit costs shall be charged
3 directly to or deducted from the charter school per-pupil
4 allocations.

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

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

11 (c) Notwithstanding any law to the contrary, to ensure
12 non-facility per-pupil general fund amounts allocated for the
13 department and charter school students are equal on an
14 annualized fiscal year basis, each year the director of finance
15 shall:

- 16 (1) Determine the sum of general fund appropriations made
17 for department and charter school student non-facility
18 costs described in subsections (a) and (b);
- 19 (2) Determine the sum of department and charter school
20 student enrollment based on reviewed and verified
21 student enrollment counts as of October 15;



- 1 (3) Determine a per-pupil amount by dividing the sum of
2 general fund appropriations determined under paragraph
3 (1) by the sum of student enrollment determined under
4 paragraph (2);
- 5 (4) Transfer a general fund amount between the department
6 and charter schools that will provide each with a per-
7 pupil allocation equal to the amount determined on an
8 annualized fiscal year basis under paragraph (3); and
- 9 (5) Annually account for all calculations and transfers
10 made pursuant to this subsection in a report to the
11 legislature, governor, department, and charter
12 schools.

13 This subsection shall not limit the ability of the director of
14 finance to modify or amend any allotment pursuant to chapter 37.

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



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

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

20 All additional funds generated by the governing boards,
21 that are not from a supplemental grant, shall be held separate



1 from allotted funds and may be expended at the discretion of the
2 governing boards.

3 (e) Authorizers shall calculate a general fund per-pupil
4 amount based upon the amount of general funds appropriated by
5 the legislature and released by the governor and the projected
6 enrollment amount used to calculate the general funds
7 appropriated pursuant to subsection (a).

8 Authorizers shall submit a report to the legislature no
9 later than twenty days prior to the convening of each regular
10 session that contains each charter school's current school year
11 projection that is used to submit the budget request, the
12 updated May 15 enrollment projection, the actual October 15
13 enrollment count, the authorizer's reviewed and verified
14 enrollment count, and the November 15 enrollment count.

15 (f) To enable charter schools to access state funding
16 prior to the start of each school year, foster their fiscal
17 planning, enhance their accountability, and avoid over-
18 allocating general funds to charter schools based on self-
19 reported enrollment projections, authorizers shall:

20 (1) Provide sixty per cent of a charter school's per-pupil
21 allocation based on the charter school's projected
22 student enrollment no later than July 20 of each



1 fiscal year; provided that the charter school shall
2 have submitted to its authorizer a projected student
3 enrollment no later than May 15 of each year;

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

10 (3) Retain no more than the balance of the remaining ten
11 per cent of a charter school's per-pupil allocation,
12 as a contingency balance to ensure fiscal
13 accountability and compliance, no later than June 30
14 of each year;

15 provided that the board may make adjustments in allocations
16 based on noncompliance with board policies made in the board's
17 capacity as the state education agency, department directives
18 made in the department's capacity as the state education agency,
19 the board's administrative procedures, and board-approved
20 accountability requirements.

21 (g) The department shall provide appropriate transitional
22 resources to a conversion charter school for its first year of



1 operation as a charter school based upon the department's
2 allocation to the school for the year prior to the conversion.

3 (h) No charter school may assess tuition.

4 **§ -29 Weighted student formula.** (a) Notwithstanding
5 section -28, charter schools shall elect whether to receive
6 allocations calculated according to the department's procedures
7 and methodology used to calculate the weighted student formula
8 allocation adopted pursuant to section 302A-1303.6; provided
9 that:

10 (1) All charter schools, as a group, with each governing
11 board being accorded one vote, shall elect, by greater
12 than two-thirds agreement among the governing boards,
13 whether to receive allocations calculated through the
14 department's procedures and methodology for the
15 weighted student formula; provided that a nonprofit
16 organization that governs more than one conversion
17 charter school may cast one vote representing each
18 school it governs; and

19 (2) Any election by charter schools to receive
20 allocations, or not to receive allocations, calculated
21 through the procedures and methodology for the
22 department's weighted student formula shall be made by



1 September 1 of each even-numbered year, and the
2 election shall apply to the fiscal biennium beginning
3 July 1 of the following year.

4 (b) The charter schools, through their authorizer, may
5 propose to the board an alternative weighted student formula,
6 approved by more than two-thirds of the governing boards, with
7 each governing board being accorded one vote, to be administered
8 by the commission and to apply to the per-pupil allocation for
9 charter schools.

10 **§ -30 Responsibilities of the department; special**
11 **education services.** (a) The department shall collaborate with
12 each authorizer to develop a system of technical assistance
13 related to compliance with federal and state laws and access to
14 federal and state funds. The department shall collaborate with
15 each authorizer to develop a list of central services that the
16 department may offer for purchase by a charter school at an
17 annual cost to be negotiated between an individual charter
18 school and the department. The department shall enter into a
19 contract with a charter school to provide these services, which
20 shall be renegotiated on an annual basis.

21 (b) The department shall be responsible for the provision
22 of a free appropriate public education. Any charter school that



1 enrolls special education students or identifies one of its
2 students as eligible for special education shall be responsible
3 for providing the educational and related services required by a
4 student's individualized education program. The programs and
5 services for the student shall be determined collaboratively by
6 the student's individualized education program team, which
7 includes the student's parents or legal guardians.

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

20 **§ -31 Sports.** The department shall provide students at
21 charter schools with the same opportunity to participate in
22 athletics as is provided to students at other public schools.



1 If a student at a charter school wishes to participate in a
2 sport for which there is no program at the charter school, the
3 department shall allow that student to participate in a
4 comparable program of any public school in the complex in which
5 the charter school is located."

6 SECTION 3. (a) There is established a charter school
7 administrative office, hereinafter referred to as the office,
8 which shall be attached to the department of education for
9 administrative purposes only. The office shall be administered
10 by an executive director, who shall be appointed without regard
11 to chapters 76 and 89, Hawaii Revised Statutes, by the state
12 public charter school commission based upon the recommendations
13 of an organization of charter schools operating within the State
14 or from a list of nominees submitted by the charter schools.
15 The state public charter school commission shall hire the
16 executive director, who may be contracted for a term of up to
17 one year; shall offer the executive director a written contract;
18 and may terminate the executive director's contract only for
19 cause; provided that the executive director's contract shall
20 automatically terminate upon the repeal of this section. The
21 executive director, with the approval of the state public
22 charter school commission, may hire necessary staff without



1 regard to chapters 76 and 89, Hawaii Revised Statutes, to assist
2 in the administration of the office.

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

8 (1) Preparing and executing the budget and the capital
9 improvement projects request for the charter schools,
10 including submission of the all means of finance
11 budget request that reflects all anticipated
12 expenditures to the state public charter school
13 commission, the board of education, the governor, and
14 the legislature; provided that, in preparing the
15 budget request with regard to needs-based facilities
16 funding, the executive director shall ensure that, as
17 a budget item separate from other operating costs, the
18 request is accompanied by a detailed explanation of
19 the formula used and a funding request breakdown by
20 school;



- 1 (2) Allocating annual appropriations to the charter
2 schools and distribution of federal funds to charter
3 schools;
- 4 (3) Complying with applicable state laws related to the
5 administration of the charter schools;
- 6 (4) Preparing contracts between the charter schools and
7 the department of education for centralized services
8 to be provided by the department of education;
- 9 (5) Preparing contracts between the charter schools and
10 other state agencies for financial or personnel
11 services to be provided by the agencies to the charter
12 schools;
- 13 (6) Providing independent analyses and recommendations on
14 charter school issues;
- 15 (7) Representing charter schools and the charter school
16 system in communications with the board of education,
17 the governor, and the legislature;
- 18 (8) Providing advocacy, assistance, and support for the
19 development, growth, progress, and success of charter
20 schools and the charter school system;
- 21 (9) Providing guidance and assistance to charter
22 applicants and charter schools to enhance the



- 1 completeness and accuracy of information for state
2 public charter school commission review;
- 3 (10) Assisting charter applicants and charter schools in
4 coordinating their interactions with the state public
5 charter school commission, as needed;
- 6 (11) Assisting the state public charter school commission
7 to coordinate with charter schools in state public
8 charter school commission investigations and
9 evaluations of charter schools;
- 10 (12) Serving as the conduit to disseminate communications
11 from the state public charter school commission, the
12 board of education, and the department of education to
13 all charter schools;
- 14 (13) Determining charter school system needs and
15 communicating those needs to the state public charter
16 school commission, the board of education, and the
17 department of education;
- 18 (14) Establishing a dispute resolution and mediation
19 process; and
- 20 (15) Upon request by one or more charter schools, assisting
21 in the negotiation of a collective bargaining



1 agreement with the exclusive representative of its
2 employees.

3 (c) The executive director shall be evaluated annually by
4 the state public charter school commission. The annual
5 evaluation shall be conducted sufficiently in advance of the end
6 of a term to provide the executive director the opportunity to
7 respond to concerns and improve performance.

8 (d) The office shall withhold funds for its operational
9 expenses, including the salaries of the executive director and
10 staff, from the annual charter school general fund
11 appropriation. The total amount of operational expenses
12 withheld:

13 (1) Shall not exceed two per cent of the annual charter
14 school general fund allocation, which shall not
15 include any funds carried over from previous years;

16 (2) Shall not include the amount of funds withheld under
17 subsections (g) and (h); and

18 (3) Shall be determined annually by the state public
19 charter school commission.

20 The salaries of the executive director and staff shall be set by
21 the state public charter school commission in accordance with



1 the requirements of this subsection and chapter 89C, Hawaii
2 Revised Statutes.

3 (e) The office shall report annually to the state public
4 charter school commission individual and aggregate expenditures
5 of charter schools, clearly distinguishing between expenditures
6 for operational purposes and for instructional purposes. The
7 office shall adopt rules to develop a standardized method for
8 charter schools to report the expenditures and to determine
9 expenditures that constitute expenditures for operational
10 expenses and expenditures for instructional purposes. If any
11 charter school fails to meet the reporting requirements under
12 this subsection, the office may retain a portion of that charter
13 school's per-pupil allocation pursuant to section -28, Hawaii
14 Revised Statutes.

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

- 17 (1) Vacation and sick leave accrued by employees
18 transferring to a charter school from another state
19 agency or department;
- 20 (2) Substitute teachers needed when a teacher is out on
21 vacation or sick leave;
- 22 (3) Adjustments to enrollments; and



1 (4) Arbitration in the grievance process.

2 (g) The office shall withhold funds for charter school
3 enrollments that are inconsistent with approved charter
4 contracts entered into pursuant to chapter _____, Hawaii Revised
5 Statutes.

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

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

13 (j) The office shall serve as the designated staff of the
14 state public charter school commission.

15 PART III

16 SECTION 4. Section 26-35.5, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) For purposes of this section, "member" means any
19 person who is appointed, in accordance with the law, to serve on
20 a temporary or permanent state board, including members of the
21 board of education, the [~~local school~~] governing board of any
22 charter school established under chapter [~~302B-7~~] _____, council,



1 authority, committee, or commission, established by law or
2 elected to the board of trustees of the employees' retirement
3 system under section 88-24, or the corporation board of the
4 Hawaii health systems corporation under section 323F-3 and its
5 regional system boards under section 323F-3.5; provided that
6 "member" shall not include any person elected to serve on a
7 board or commission in accordance with chapter 11."

8 SECTION 5. Section 89-6, Hawaii Revised Statutes, is
9 amended by amending subsection (f) to read as follows:

10 "(f) The following individuals shall not be included in
11 any appropriate bargaining unit or be entitled to coverage under
12 this chapter:

13 (1) Elected or appointed official;

14 (2) Member of any board or commission; provided that
15 nothing in this paragraph shall prohibit a member of a
16 collective bargaining unit from serving on a [~~local~~
17 ~~school~~] governing board of a charter school, on the
18 state public charter school commission, or [the] as a
19 charter school [~~review panel~~] authorizer established
20 under chapter [~~302B+~~] _____;

21 (3) Top-level managerial and administrative personnel,
22 including the department head, deputy or assistant to



- 1 a department head, administrative officer, director,
2 or chief of a state or county agency or major
3 division, and legal counsel;
- 4 (4) Secretary to top-level managerial and administrative
5 personnel under paragraph (3);
- 6 (5) Individual concerned with confidential matters
7 affecting employee-employer relations;
- 8 (6) Part-time employee working less than twenty hours per
9 week, except part-time employees included in unit (5);
- 10 (7) Temporary employee of three months' duration or less;
- 11 (8) Employee of the executive office of the governor or a
12 household employee at Washington Place;
- 13 (9) Employee of the executive office of the lieutenant
14 governor;
- 15 (10) Employee of the executive office of the mayor;
- 16 (11) Staff of the legislative branch of the State;
- 17 (12) Staff of the legislative branches of the counties,
18 except employees of the clerks' offices of the
19 counties;
- 20 (13) Any commissioned and enlisted personnel of the Hawaii
21 national guard;



- 1 (14) Inmate, kokua, patient, ward, or student of a state
- 2 institution;
- 3 (15) Student help;
- 4 (16) Staff of the Hawaii labor relations board;
- 5 (17) Employees of the Hawaii national guard youth challenge
- 6 academy; or
- 7 (18) Employees of the office of elections."

8 SECTION 6. Section 89-10.55, Hawaii Revised Statutes, is
 9 amended by amending subsections (c) and (d) to read as follows:

10 "(c) For the purpose of negotiating a memorandum of
 11 agreement or a supplemental agreement that only applies to
 12 employees of a charter school, the employer shall mean the
 13 [~~local school~~] governing board, subject to the conditions and
 14 requirements contained in the applicable sections of this
 15 chapter governing any memorandum of agreement or supplemental
 16 agreement.

17 (d) Negotiations over matters covered by this section
 18 shall be conducted between the employer and exclusive
 19 representative pursuant to this chapter. Cost items that are
 20 appropriated for and approved by the legislature and contained
 21 in a collective bargaining agreement, memorandum of agreement,
 22 or supplemental agreement covering, wholly or partially,



1 employees in charter schools shall be allocated by the
2 department of budget and finance to [the] a charter school
3 [~~administrative office~~] authorizer for distribution to the
4 charter [~~schools-~~] schools it authorizes. However, if the
5 charter school [~~administrative office~~] authorizer deems it
6 appropriate, the cost items may be funded from a charter
7 school's existing allocation or other sources of revenue
8 received by a charter school."

9 SECTION 7. Section 302A-101, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By adding two new definitions to be appropriately
12 inserted and to read:

13 "Authorizer" has the same meaning as in section -1.

14 "Commission" has the same meaning as in section -1."

15 2. By deleting the definitions of "charter school
16 administrative office" or "office" and "charter school review
17 panel" or "panel".

18 [~~"Charter school administrative office" or "office" means~~
19 ~~the office established in section 302B-8 responsible for the~~
20 ~~internal organization, operation, and management of the charter~~
21 ~~school system.~~



1 ~~"Charter school review panel" or "panel" means the panel~~
2 ~~established in section 302B-3."~~]

3 SECTION 8. Section 302A-1101, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

5 "(d) The board shall appoint the state public charter
6 school [~~review panel,~~] commission which shall serve as the
7 statewide charter authorizer for charter schools, with the power
8 and duty to issue charters, oversee and monitor charter schools,
9 hold charter schools accountable for their performance, and
10 revoke charters."

11 SECTION 9. Section 302A-1151, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§302A-1151 Sale of school lands unnecessary for school**
14 **purposes.** The chairperson of the board of land and natural
15 resources is hereby requested, upon the recommendation and
16 approval of the superintendent, to sell any state lands,
17 including the buildings thereon, once used but no longer
18 necessary for school purposes; provided that no school facility
19 or portion of a school facility shall be sold before that
20 facility or portion of the facility is made available for use by
21 the department or charter schools, pursuant to sections 302A-
22 1151.5 and [~~302B-3.6.~~] -24."



1 SECTION 10. Section 302A-1151.5, Hawaii Revised Statutes,
2 is amended by amending subsections (b) to (e) to read as
3 follows:

4 "(b) The department shall submit a notice of possible
5 availability of a public school to the [~~charter school review~~
6 ~~panel~~] board as early as possible; provided that if a vacancy is
7 established, a notice of vacancy shall be submitted to the
8 [~~charter school review panel~~] board no later than thirty days
9 after the establishment of the vacancy.

10 (c) Pursuant to section [~~302B-3.6~~] -24 and upon
11 receipt of a notice pursuant to subsection (b), the [~~charter~~
12 ~~school review panel~~] board shall solicit applications from
13 charter schools interested in using and occupying all or
14 portions of the facilities of the public school and submit a
15 prioritized list of charter schools to the department for final
16 determination of which charter school, if any, shall be
17 authorized to use and occupy the public school facilities.

18 (d) Upon the selection of a charter school to use a vacant
19 school facility or portion of a school facility, the department
20 and the [~~charter school review panel~~] selected charter school's
21 governing board shall enter into necessary agreements within



1 ninety days of the selection to carry out the purposes of this
2 section.

3 (e) After receipt by the [~~charter school review panel~~]
4 board of a notice pursuant to subsection (b), if the [~~charter~~
5 ~~school review panel~~] board does not [~~provide~~] compile a
6 prioritized list of charter schools because no charter school
7 has requested to use the facilities of the public school, or if
8 the [~~department receives the prioritized list but~~] board
9 determines that no charter school on the list is an appropriate
10 candidate to occupy and use the facilities, the department shall
11 give reasonable consideration to making all or portions of the
12 facilities of the public school, if closed, available for
13 occupancy and use for other educational purposes."

14 SECTION 11. Section 302A-1302, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§302A-1302 School-based budget flexibility. (a)**
17 Beginning with the 1995-1997 fiscal biennium, the department
18 shall implement school-based budget flexibility for schools,
19 complexes, and learning support centers. The flexibility shall
20 be limited to the school-based budgeting program EDN 100 of the
21 department for all schools except charter schools.



1 (b) Beginning in fiscal year 2006-2007, [~~and every year~~
2 ~~thereafter,~~] the office shall distribute the allocations due to
3 a charter school directly to the charter school.

4 (c) Beginning in fiscal year 2012-2013, and every year
5 thereafter, each authorizer, as defined in section -1, shall
6 distribute the allocations due to each charter school it
7 authorizes directly to the charter school."

8 SECTION 12. Section 302A-1303.6, Hawaii Revised Statutes,
9 is amended to read as follows:

10 **"§302A-1303.6 Weighted student formula.** Based upon
11 recommendations from the committee on weights, the board of
12 education, not less than once every odd-numbered year, shall
13 adopt a weighted student formula for the allocation of moneys to
14 public schools that takes into account the educational needs of
15 each student. The department, upon the receipt of appropriated
16 moneys, shall use the weighted student formula to allocate funds
17 to public schools. Principals shall expend moneys provided to
18 the principals' schools. This section shall only apply to
19 charter schools for fiscal years in which the charter schools
20 elect pursuant to section [~~302B-13~~] -29 to receive
21 allocations according to the weighted student formula."



1 SECTION 13. Section 302A-1403, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§302A-1403 Authority to secure federal funds. The
4 department, the state public charter school [~~administrative~~
5 ~~office,~~] commission, a charter school authorizer, director of
6 finance, and governor may take such steps and perform such acts
7 as may be necessary or proper to secure any such federal funds
8 for the purposes specified in sections 302A-1401 and 302A-1402."

9 SECTION 14. Section 302A-1404, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) The department and the state public charter school
12 [~~administrative office,~~] commission or an authorizer, as
13 appropriate, may retain and expend federal indirect overhead
14 reimbursements for discretionary grants in excess of the
15 negotiated rate for such reimbursements as determined by the
16 director of finance and the superintendent or the director of
17 finance and the [~~executive director of the~~] state public charter
18 school [~~administrative office,~~] commission or an authorizer, as
19 appropriate."

20 SECTION 15. Section 302A-1505, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



1 SECTION 18. All rights, powers, functions, and duties of
2 the charter school administrative office as established pursuant
3 to section 302B-8, Hawaii Revised Statutes, are transferred to
4 the charter school administrative office as established pursuant
5 to section 3 of this Act.

6 All officers and employees whose functions are transferred
7 by this Act shall be transferred with their functions and shall
8 continue to perform their regular duties upon their transfer,
9 subject to the state personnel laws and this Act.

10 No officer or employee of the State having tenure shall
11 suffer any loss of salary, seniority, prior service credit,
12 vacation, sick leave, or other employee benefit or privilege as
13 a consequence of this Act, and such officer or employee may be
14 transferred or appointed to a civil service position without the
15 necessity of examination; provided that the officer or employee
16 possesses the minimum qualifications for the position to which
17 transferred or appointed; and provided that subsequent changes
18 in status may be made pursuant to applicable civil service and
19 compensation laws.

20 An officer or employee of the State who does not have
21 tenure and who may be transferred or appointed to a civil
22 service position as a consequence of this Act shall become a



1 civil service employee without the loss of salary, seniority,
2 prior service credit, vacation, sick leave, or other employee
3 benefits or privileges and without the necessity of examination;
4 provided that such officer or employee possesses the minimum
5 qualifications for the position to which transferred or
6 appointed.

7 If an office or position held by an officer or employee
8 having tenure is abolished, the officer or employee shall not
9 thereby be separated from public employment, but shall remain in
10 the employment of the State with the same pay and classification
11 and shall be transferred to some other office or position for
12 which the officer or employee is eligible under the personnel
13 laws of the State as determined by the head of the department or
14 the governor.

15 SECTION 19. All appropriations, records, equipment,
16 machines, files, supplies, contracts, books, papers, documents,
17 maps, and other personal property heretofore made, used,
18 acquired, or held by the charter school administrative office as
19 established pursuant to section 302B-8, Hawaii Revised Statutes,
20 relating to the functions transferred to the charter school
21 administrative office as established pursuant to section 3 of



1 this Act shall be transferred with the functions to which they
2 relate.

3 SECTION 20. All rules, polices, procedures, guidelines,
4 and other material adopted or developed by the board of
5 education to implement provisions of the Hawaii Revised Statutes
6 that are made applicable to public charter schools prior to the
7 effective date of this Act, shall remain in full force and
8 effect until amended or repealed by the board of education
9 pursuant to chapter 91, Hawaii Revised Statutes.

10 SECTION 21. As of the effective date of this Act, all
11 moneys in the charter schools account established pursuant to
12 section 302B-12(i), Hawaii Revised Statutes, shall be
13 transferred to the general fund of the State of Hawaii.

14 SECTION 22. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 23. This Act shall take effect upon its approval;
17 provided that section 3 of this Act shall be repealed on July 1,
18 2013.

APPROVED this 19 day of JUN, 2012



GOVERNOR OF THE STATE OF HAWAII