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# A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

1 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



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 "Application" means a proposal from an applicant to an  
10 authorizer to enter into a charter contract whereby the proposed  
11 school obtains public charter school status.

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

18 "Board" means the board of education.

19 "Charter contract" means a fixed-term, bilateral, renewable  
20 contract between a public charter school and an authorizer that  
21 outlines the roles, powers, responsibilities, and performance  
22 expectations for each party to the contract.



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

10 "Commission" means the state public charter school  
11 commission established pursuant to -3 as a statewide  
12 authorizer.

13 "Conversion charter school" means:

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

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

21 (3) A newly created school consisting of programs or  
22 sections of existing public school populations that



1           are funded and governed independently and may include  
2           part of a separate Hawaiian language immersion program  
3           using existing public school facilities.

4           "Department" means the department of education.

5           "Executive director" means the executive director of the  
6           state public charter school commission.

7           "Governing board" means the independent board of a public  
8           charter school that is party to the charter contract with the  
9           authorizer that:

10           (1) Is responsible for the financial, organizational, and  
11           academic viability of the charter school and  
12           implementation of the charter;

13           (2) Possesses the independent authority to determine the  
14           organization and management of the school, the  
15           curriculum, and virtual education;

16           (3) Has the power to negotiate supplemental collective  
17           bargaining agreements with exclusive representatives  
18           of their employees and is considered the employer of  
19           charter school employees for purposes of chapters 76,  
20           78, and 89; and

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



1 "Nonprofit organization" means a private, nonprofit,  
2 tax-exempt entity that:

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

6 "Organizational viability" means that a charter school:

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



- 1 (7) Complies with applicable federal, state, and county  
2 laws and requirements;
- 3 (8) In accordance with authorizer guidelines and  
4 procedures, is financially sound and fiscally  
5 responsible in its use of public funds, maintains  
6 accurate and comprehensive financial records, operates  
7 in accordance with generally accepted accounting  
8 practices, and maintains a sound financial plan;
- 9 (9) Operates within the scope of its charter and fulfills  
10 obligations and commitments of its charter;
- 11 (10) Complies with all health and safety laws and  
12 requirements;
- 13 (11) Complies with all commission and authorizer  
14 directives, policies, and procedures; and
- 15 (12) Complies with all board policies deemed applicable to  
16 charter schools by the board.

17 "Start-up charter school" means a new school established  
18 under section -13.

19 **§ -2 Existing charter schools.** Any charter school  
20 holding a charter to operate under part IV, subpart D, of  
21 chapter 302A, as that subpart existed before July 11, 2006, and  
22 any charter school holding a charter to operate under chapter



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

6       **§ -3 State public charter school commission;**

7 **establishment; appointment.** (a) There is established the state  
8 public charter school commission with statewide chartering  
9 jurisdiction and authority. The commission shall be placed  
10 within the department for administrative purposes only.

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

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

15       (c) The commission shall consist of nine members to be  
16 appointed by the board. The board shall appoint members who  
17 will be tasked with authorizing public charter schools that  
18 serve the unique and diverse needs of public school students.  
19 The chair of the commission shall be designated by the members  
20 of the commission for each school year beginning July 1, and  
21 whenever there is a vacancy. The board shall consider the  
22 combination of abilities, breadth of experiences, and





1 characteristics of the commission, including but not limited to  
2 reflecting the diversity of the student population, geographical  
3 representation, and a broad representation of education-related  
4 stakeholders.

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

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

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

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



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

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

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

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

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



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

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

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

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

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

14 (i) Commission members shall receive no compensation.

15 When commission duties require that a commission member take

16 leave of the member's duties as a state employee, the

17 appropriate state department shall allow the commission member

18 to be placed on administrative leave with pay and shall provide

19 substitutes, when necessary, to fulfill that member's duties.

20 Members shall be reimbursed for necessary travel expenses

21 incurred in the conduct of official commission business.



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

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

8 **§ -4 Chartering authority application for eligible**

9 **entities.** (a) The commission created under section -3 may  
10 authorize public charter schools anywhere in the State.

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

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

19 (d) Governing boards of non-profit or charitable  
20 organizations, which are exempt from federal taxes under section  
21 501(c)(3) or 501(c)(6) of the Internal Revenue Code, may apply  
22 to the board, and may be granted statewide chartering authority.



1 Nonpublic sectarian or religious organizations and any other  
2 charitable organization which in their federal Internal Revenue  
3 Service Form 1023, Part IV, describe activities indicating a  
4 religious purpose, are not eligible to apply to become an  
5 authorizer under this chapter.

6 (e) The board shall establish, through administrative  
7 rules, the annual application and approval process for all  
8 entities eligible to apply for chartering authority pursuant to  
9 this section. Following the adoption of administrative rules,  
10 by June 30 of each year, the board shall make available  
11 information and guidelines for all eligible entities concerning  
12 the opportunity to apply for chartering authority under this  
13 chapter. The application process shall require each interested  
14 eligible entity to submit an application that clearly explains  
15 or presents the following elements:

16 (1) Written notification of intent to serve as a charter  
17 authorizer in accordance with this chapter;

18 (2) The applicant entity's strategic vision for  
19 chartering;

20 (3) A plan to support the vision presented, including  
21 explanation and evidence of the applicant entity's  
22 budget and personnel capacity and commitment to



- 1 execute the responsibilities of quality charter  
2 authorizing, in accordance with this chapter;
- 3 (4) A draft or preliminary outline of the request for  
4 proposals that the applicant entity, if approved as a  
5 charter authorizer, would issue to solicit public  
6 charter school applicants;
- 7 (5) A draft of the performance framework that the  
8 applicant entity, if approved as a charter authorizer,  
9 would use to guide the establishment of a charter  
10 contract and for ongoing oversight and evaluation of  
11 public charter schools, consistent with the  
12 requirements of this chapter;
- 13 (6) A draft of the applicant entity's renewal, revocation,  
14 and nonrenewal processes, consistent with section  
15 -18;
- 16 (7) A statement of assurance that the applicant entity  
17 seeks to serve as a charter authorizer in fulfillment  
18 of the expectations, spirit, and intent of this  
19 chapter, and that if approved as a charter authorizer,  
20 the entity will fully participate in any authorizer  
21 training provided or required by the State; and



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

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

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

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

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



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





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

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

8           (c) An authorizing entity may delegate its duties to  
9           officers, employees, and contractors.

10          (d) Regulation by authorizers shall be limited to the  
11          powers and duties set forth in this section, and shall be  
12          consistent with the spirit and intent of this chapter.

13          (e) An authorizing entity, members of the board of an  
14          authorizer acting in their official capacity, and employees or  
15          agents of an authorizer are immune from civil and criminal  
16          liability with respect to all activities related to a public  
17          charter school authorized by that entity, except for any acts or  
18          omissions constituting wilful misconduct.

19          (f) An authorizer shall not provide technical support to a  
20          charter school it authorizes in cases where the technical  
21          support will impact any authorizer decision related to the



1 authorization, renewal, revocation, or nonrenewal of the charter  
2 school.

3       **§ -6 Principles and standards for charter authorizing.**

4 All authorizers shall be required to develop and maintain  
5 chartering policies and practices consistent with nationally  
6 recognized principles and standards for quality charter  
7 authorizing in all major areas of authorizing responsibility  
8 including:

- 9       (1) Organizational capacity and infrastructure;
- 10       (2) Soliciting and evaluating charter applications;
- 11       (3) Performance contracting;
- 12       (4) Ongoing public charter school oversight and  
13           evaluation; and
- 14       (5) Charter renewal decision-making.

15       Authorizers shall carry out all their duties under this  
16 chapter in a manner consistent with nationally recognized  
17 principles and standards and with the spirit and intent of this  
18 chapter. Evidence of material or persistent failure to do so  
19 shall constitute grounds for losing charter authorizing powers.

20       **§ -7 Authorizer reporting.** Every authorizer shall be  
21 required to submit to the board and the legislature an annual  
22 report summarizing:



- 1 (1) The authorizer's strategic vision for chartering and  
2 progress toward achieving that vision;
- 3 (2) The academic and financial performance of all  
4 operating public charter schools overseen by the  
5 authorizer, according to the performance expectations  
6 for public charter schools set forth in this chapter;
- 7 (3) The status of the authorizer's public charter school  
8 portfolio, identifying all public charter schools in  
9 each of the following categories: approved (but not  
10 yet open), not approved, operating, renewed,  
11 transferred, revoked, not renewed, voluntarily closed,  
12 or never opened;
- 13 (4) The authorizing functions provided by the authorizer  
14 to the public charter schools under its purview,  
15 including the authorizer's operating costs and  
16 expenses detailed in annual audited financial  
17 statements that conform with generally accepted  
18 accounting principles;
- 19 (5) The services purchased from the authorizer by the  
20 public charter schools under its purview, including an  
21 itemized accounting of the actual costs of these  
22 services, as required in section -10;



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

4 (7) Any concerns regarding equity and recommendations to  
5 improve access to and distribution of federal funds to  
6 public charter schools.

7 § -8 **Conflict of interests.** No employee, trustee,  
8 agent, or representative of an authorizer may simultaneously  
9 serve as an employee, trustee, agent, representative, vendor, or  
10 contractor of a public charter school authorized by that  
11 authorizer.

12 § -9 **Exclusivity of authorizing functions and rights.**  
13 No governmental or other entity, other than those expressly  
14 granted chartering authority as set forth in this chapter, may  
15 assume any charter authorizing function or duty in any form,  
16 unless expressly allowed by law.

17 § -10 **Services purchased from authorizer; itemized**  
18 **accounting.** (a) No public charter school shall be required to  
19 purchase services from its authorizer as a condition of charter  
20 approval or renewal or of executing a charter contract, nor may  
21 any such condition be implied.



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

10 (c) Within days after the end of each fiscal year,  
11 each authorizer shall provide to each public charter school it  
12 oversees an itemized accounting of the final invoiced amount of  
13 services purchased by the public charter school from the  
14 authorizer. Any difference between the amount initially charged  
15 to the public charter school and the final invoiced amount shall  
16 be reconciled and paid to the owed party. If either party  
17 disputes the itemized accounting, any charges included in the  
18 accounting, or charges to either party, the disputing party is  
19 entitled to request a third-party review at its own expense.  
20 The review shall be conducted by the board whose determination  
21 shall be final.



1           **§ -11 Oversight of public charter school authorizers.**

2       (a) The board shall be responsible for overseeing the  
3 performance and effectiveness of all authorizers established  
4 under this chapter.

5           (b) In accordance with section -7, every authorizer  
6 shall submit to the board and the legislature an annual report.  
7 The board shall, by           of each year, communicate to every  
8 authorizer the requirements for the format, content, and  
9 submission of the annual report.

10          (c) Persistently unsatisfactory performance of an  
11 authorizer's portfolio of public charter schools, a pattern of  
12 well-founded complaints about the authorizer or its public  
13 charter schools, or other objective circumstances may trigger a  
14 special review by the board. In reviewing or evaluating the  
15 performance of authorizers the board shall apply nationally  
16 recognized principles and standards for quality charter  
17 authorizing. If at any time the board finds that an authorizer  
18 is not in compliance with an existing charter contract, its  
19 authorizing contract with the board, or the requirements of all  
20 authorizers under this chapter, the board shall notify the  
21 authorizer in writing of the identified problems, and the



1 authorizer shall have reasonable opportunity to respond to and  
2 remedy the problems.

3 (d) If an authorizer persists, after due notice from the  
4 board, in violating a material provision of a charter contract  
5 or its authorizing contract with the board, or fails to remedy  
6 other identified authorizing problems, the board shall notify  
7 the authorizer, within a reasonable amount of time under the  
8 circumstances, that it intends to revoke the authorizer's  
9 chartering authority unless the authorizer demonstrates a timely  
10 and satisfactory remedy for the violation or deficiencies.

11 (e) In the event of revocation of any authorizer's  
12 chartering authority, the board shall manage the timely and  
13 orderly transfer of each charter contract held by that  
14 authorizer to another authorizer in the State, with the mutual  
15 agreement of each affected public charter school and proposed  
16 new authorizer. The new authorizer shall enter into a new  
17 contract with the charter school for the remainder of the  
18 charter term.

19 **§ -12 Charter school governing boards; powers and**  
20 **duties.** (a) No more than thirty per cent of the members of a  
21 governing board shall be employees of a school or relatives of  
22 employees of a school under the jurisdiction of that governing



1 board; provided that the chief executive officer, chief  
2 administrative officer, executive director, or otherwise  
3 designated head of a charter school may serve as an ex officio,  
4 non-voting member of the governing board. In selecting members,  
5 consideration shall be given to persons who:

6 (1) Demonstrate an understanding of best practices of non-  
7 profit governance;

8 (2) Possess strong financial management, academic  
9 knowledge and oversight, human resources, and  
10 fundraising experience; and

11 (3) Provide the governing board with a diversity of  
12 perspective and a level of objectivity that accurately  
13 represent the interests of the charter school students  
14 and the surrounding community.

15 (b) No employee of a charter school or relative of an  
16 employee of a charter school may serve as the chair of the  
17 governing board of that charter school; provided that an  
18 authorizer may grant an exemption from the provisions of this  
19 subsection based upon a determination by the authorizer that an  
20 exemption is in the best interest of the charter school.

21 (c) The governing board shall be the independent governing  
22 body of its charter school and shall have oversight over and be





1 responsible for the financial, organizational, and academic  
2 viability of the charter school, implementation of the charter,  
3 and the independent authority to determine the organization and  
4 management of the school, the curriculum, virtual education, and  
5 compliance with applicable federal and state laws. The  
6 governing board shall ensure its school complies with the terms  
7 of the charter contract between the commission or authorizer and  
8 the school. The governing board shall have the power to  
9 negotiate supplemental collective bargaining agreements with the  
10 exclusive representatives of their employees.

11 (d) Governing boards shall be exempt from chapter 103D,  
12 but shall develop internal policies and procedures for the  
13 procurement of goods, services, and construction, consistent  
14 with the goals of public accountability and public procurement  
15 practices. Governing boards and charter schools are encouraged  
16 to use the provisions of chapter 103D wherever possible;  
17 provided that the use of one or more provisions of chapter 103D  
18 shall not constitute a waiver of the exemption from chapter 103D  
19 and shall not subject the charter school to any other provision  
20 of chapter 103D.



1 (e) Charter schools and their governing boards shall be  
2 exempt from the requirements of chapters 91 and 92. The  
3 governing boards shall:

4 (1) Make available the notices and agendas of public  
5 meetings:

6 (A) At a publicly accessible area in the governing  
7 board's office and the authorizer's office so as  
8 to be available for review during regular  
9 business hours; and

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

17 (2) Make available the minutes from public meetings within  
18 thirty days and maintain a list of the current names  
19 and contact information of the governing board's  
20 members and officers:



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

4 (B) On the governing board's or charter school's  
5 internet website, if applicable, and the  
6 authorizer's internet website.

7 (f) Charter schools and governing boards shall be exempt  
8 from chapter 84; provided that they shall develop internal  
9 policies and procedures for gifts, confidential information,  
10 fair treatment, conflicts of interest, and contracts consistent  
11 with the goals of the state ethics code, pursuant to chapter 84.  
12 Charter schools and governing boards are encouraged to use the  
13 provisions of chapter 84 where possible; provided that the use  
14 of one or more provisions of chapter 84 shall not constitute a  
15 waiver of the exemption from chapter 84 and shall not subject  
16 the charter school or governing board to any other provision of  
17 chapter 84.

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

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



1 officer, executive director, or otherwise designated head of a  
2 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  
10 an application pursuant to subsection (d).

11       (c) The start-up charter school application process and  
12 schedule shall be determined by the authorizer, and shall  
13 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 application form and  
17 completion guidelines to the governing board;

18       (3) The timely submission of a completed application to  
19 the authorizer;

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



- 1 to the governing board that the application is  
2 complete;
- 3 (5) Upon receipt of a completed application, the convening  
4 of the commission, if applicable, by the commission  
5 chairperson to begin review of the application;
- 6 (6) Following the submission of an application, issuance  
7 of a charter or denial of the application by the  
8 authorizer or if submitted to the commission, by  
9 majority vote;
- 10 (7) A provision for a final date by which a decision must  
11 be made, upon receipt of a complete application; and
- 12 (8) A provision that no start-up charter school may begin  
13 operation before obtaining authorizer approval of its  
14 charter and charter contract.
- 15 (d) An application to become a start-up charter school  
16 shall meet the requirements of this subsection and section  
17 -25. The application shall include the following:
- 18 (1) A description of employee rights and management issues  
19 and a framework for addressing those issues that  
20 protects the rights of employees;
- 21 (2) A plan for identifying, recruiting, and retaining  
22 highly qualified instructional faculty;



- 1           (3) A plan for identifying, recruiting, and selecting
- 2           students that is not exclusive, elitist, or
- 3           segregationist;
- 4           (4) The curriculum and instructional framework to be used
- 5           to achieve student outcomes, including an assessment
- 6           plan;
- 7           (5) A plan for the assessment of student, administrative
- 8           support, and teaching personnel performance that:
- 9           (A) Recognizes the interests of the general public;
- 10          (B) Incorporates or exceeds the educational content
- 11          and performance standards developed by the
- 12          department for the public school system;
- 13          (C) Includes a system of faculty and staff
- 14          accountability that holds faculty and staff
- 15          individually and collectively accountable for
- 16          their performance, and that is at least
- 17          equivalent to the average system of
- 18          accountability in public schools throughout the
- 19          State; and
- 20          (D) Provides for program audits and annual financial
- 21          audits;



- 1           (6) A governance structure for the charter school that  
2           incorporates a conflict of interest policy and a plan  
3           for periodic training to carry out the duties of  
4           governing board members;
- 5           (7) A description of the constitution of the governing  
6           board, terms of governing board members, and the  
7           process by which governing board members were  
8           selected;
- 9           (8) A financial plan based on the most recent fiscal  
10          year's per-pupil charter school allocation that  
11          demonstrates the ability to meet the financial  
12          obligations of one-time, start-up costs and ongoing  
13          costs such as monthly payrolls, faculty recruitment,  
14          professional development, and facilities costs; and
- 15          (9) A facilities plan.
- 16          (e) Any applicant whose charter application is denied by  
17          the authorizer shall not be allowed to amend or resubmit the  
18          application to the authorizer during a given cycle, as defined  
19          by the authorizer; provided that an applicant shall have the  
20          right to appeal the authorizer's denial of its application  
21          pursuant to section       -15.



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

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

11 **§ -14 Conversion charter schools; establishment.** (a) A  
12 conversion charter school may be established pursuant to this  
13 section.

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

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





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

3 (2) The timely transmittal of the application form and  
4 completion guidelines to the governing board;

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

12 (A) This vote shall be considered by the authorizer  
13 to be the primary indication of the existing  
14 administrative, support, and teaching personnel,  
15 and parents' approval to convert to a charter  
16 school;

17 (B) The balance of stakeholders represented in the  
18 vote and the broad support received in support of  
19 the conversion shall be a key factor in an  
20 authorizer's decision to award a charter; and

21 (C) A breakdown of the number of administrative,  
22 support, and teacher personnel, and parents that



1                   actually participated in the vote shall be  
2                   provided to the authorizer;

3           (4) The timely review of the application by the authorizer  
4           for completeness, and notification by the authorizers  
5           to the governing board that the application is  
6           complete;

7           (5) Upon receipt of a completed application, the convening  
8           of the commission, if applicable, by the commission  
9           chairperson to begin review of the application;

10          (6) Following the submission of an application, issuance  
11          of a charter or denial of the application by the  
12          authorizer or if submitted to the commission, by  
13          majority vote;

14          (7) A provision for a final date by which a decision must  
15          be made upon receipt of a complete application; and

16          (8) A provision that no conversion charter school may  
17          begin operation before obtaining authorizer approval  
18          of its charter and charter contract.

19          (d) An application to become a conversion charter school  
20 shall meet the requirements of this subsection and section

21          -25. The application shall include the following:



- 1 (1) A description of employee rights and management issues  
2 and a framework for addressing those issues that  
3 protects the rights of employees;
- 4 (2) A plan for identifying, recruiting, and retaining  
5 highly qualified instructional faculty;
- 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) A nonprofit organization may submit a letter of intent  
21                  to an authorizer to convert a department school to a conversion  
22                  charter school, operate and manage the school, establish a



1 governing board as its governing body, and develop an  
2 application pursuant to subsection (d); provided that:

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

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

20 (A) This vote shall be considered by the authorizer  
21 to be the primary indication of the existing  
22 administrative, support, and teaching personnel,



1 and parents' approval to convert to a charter  
2 school;

3 (B) The balance of stakeholders represented in the  
4 vote and the broad support received in support of  
5 the conversion shall be a key factor in an  
6 authorizer's decision to award a charter; and

7 (C) A breakdown of the number of administrative,  
8 support, and teacher personnel, and parents that  
9 actually participated in the vote shall be  
10 provided to the authorizer;

11 (3) The board of directors of the nonprofit organization,  
12 as the governing body for the conversion charter  
13 school that it operates and manages, shall have the  
14 same protections that are afforded to the board in its  
15 role as the conversion charter school governing body;

16 (4) Any conversion charter school that is managed and  
17 operated by a nonprofit organization shall be eligible  
18 for the same federal and state funding as other public  
19 schools; provided that the nonprofit organization  
20 makes a minimum annual contribution of \$1 per pupil  
21 toward the operation of a conversion charter school  
22 for every \$4 per pupil allocated by the department of



1 budget and finance for the operation of the conversion  
2 charter school; provided further that in no event  
3 shall the nonprofit organization be required to  
4 contribute more than the total required contribution  
5 per pupil per year. As used in this paragraph, "total  
6 required contribution" means:

7 (A) \$1,650 for school years 2012-2013 through 2015-  
8 2016; and

9 (B) \$1,815 for school years 2016-2017 through 2020-  
10 2021; and

11 (5) If, at any time, the board of directors of the  
12 nonprofit organization governing the conversion  
13 charter school votes to discontinue its relationship  
14 with the charter school, the charter school may submit  
15 a revised application to the authorizer to continue as  
16 a conversion school without the participation of the  
17 nonprofit organization.

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

21 (1) Have bylaws or policies that describe the manner in  
22 which business is conducted and policies that relate



1 to the management of potential conflict of interest  
2 situations;

3 (2) Have experience in the management and operation of  
4 public or private schools or, to the extent necessary,  
5 agree to obtain appropriate services from another  
6 entity or entities possessing such experience;

7 (3) Comply with all applicable federal, state, and county  
8 laws, including licensure or accreditation, as  
9 applicable; and

10 (4) Comply with any other requirements prescribed by the  
11 department to ensure adherence with applicable  
12 federal, state, and county laws, and the purposes of  
13 this chapter.

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

19 (h) In reviewing an application for a charter under this  
20 section, an authorizer shall take into consideration the  
21 constitution of the applicant's governing board, terms of





1 governing board members, and the process by which governing  
2 board members were selected.

3 (i) In the event of a conflict between the provisions in  
4 this section and other provisions in this chapter, this section  
5 shall control.

6 (j) Any applicant whose charter application is denied by  
7 the authorizer shall not be allowed to amend or resubmit the  
8 application to the authorizer during a given cycle, as defined  
9 by the authorizer, except as provided in subsection (e)(5);  
10 provided that an applicant shall have the right to appeal the  
11 authorizer's denial of its application pursuant to section  
12 -15.

13 (k) In reviewing applications for a charter under this  
14 section, an authorizer shall develop a schedule to approve or  
15 deny a charter application by the end of the calendar year for  
16 purposes of meeting any deadlines to request funding from the  
17 legislature.

18 **§ -15 Appeals; charter school applications,**  
19 **reauthorizations, or revocations.** The board shall have the  
20 power to decide appeals of decisions by the commission or an  
21 authorizer to deny the approval of a charter school application,  
22 deny reauthorization of a charter school, or revoke a charter



1 school's charter. An appeal shall be filed with the board  
2 within twenty-one calendar days of the receipt of the  
3 notification of denial or revocation. Only a party whose  
4 charter school application has been denied, whose  
5 reauthorization has been denied, or whose charter has been  
6 revoked may initiate an appeal under this section for cause.  
7 The board shall review an appeal and issue a final decision  
8 within sixty calendar days of the filing of the appeal. The  
9 board may adopt applicable rules and procedures pursuant to  
10 chapter 91 for implementing the appeals process.

11       **§ -16 Performance framework.** (a) The performance  
12 provisions within the charter contract shall be based on a  
13 performance framework that clearly sets forth the academic and  
14 operational performance indicators, measures, and metrics that  
15 will guide the authorizer's evaluations of each public charter  
16 school. The performance framework, as established by the  
17 authorizer, shall include indicators, measures, and metrics for,  
18 at a minimum:

- 19       (1) Student academic proficiency;  
20       (2) Student academic growth;  
21       (3) Achievement gaps in proficiency and growth between  
22             major student subgroups;



- 1 (4) Attendance;
- 2 (5) Recurrent enrollment from year to year;
- 3 (6) Postsecondary readiness, as applicable for high  
4 schools;
- 5 (7) Financial performance and sustainability;
- 6 (8) Performance and stewardship, including compliance with  
7 all applicable laws, rules, and terms of the charter  
8 contract; and
- 9 (9) Organizational viability.
- 10 (b) Annual performance targets shall be set by each public  
11 charter school in conjunction with its authorizer, and shall be  
12 designed to help each school meet applicable federal, state, and  
13 authorizer expectations.
- 14 (c) The performance framework shall allow the inclusion of  
15 additional rigorous, valid, and reliable indicators proposed by  
16 a public charter school to augment external evaluations of its  
17 performance; provided that the authorizer approves the quality  
18 and rigor of such school-proposed indicators, and the indicators  
19 are consistent with the purposes of this chapter and the charter  
20 contract.
- 21 (d) The performance framework shall require the  
22 disaggregation of all student performance data by major student



1 subgroups, including gender, race, poverty status, special  
2 education status, English as a second language status, and  
3 gifted and talented status.

4 (e) For each public charter school it oversees, the  
5 authorizer shall be responsible for collecting, analyzing, and  
6 reporting all data from assessments in accordance with the  
7 performance framework.

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

13 **§ -17 Ongoing oversight and corrective actions.** (a) An  
14 authorizer shall continually monitor the performance and legal  
15 compliance of the public charter schools it oversees, including  
16 collecting and analyzing data to support ongoing evaluation  
17 according to the charter contract. Every authorizer shall have  
18 the authority to conduct or require oversight activities that  
19 enable the authorizer to fulfill its responsibilities under this  
20 chapter, including conducting appropriate inquiries and  
21 investigations, so long as those activities are consistent with



1 the intent of this chapter and adhere to the terms of the  
2 charter contract.

3 (b) Each authorizer shall annually publish and provide, as  
4 part of its annual report to the board and the legislature, a  
5 performance report for each public charter school it oversees,  
6 in accordance with the performance framework set forth in the  
7 charter contract and section -16. The authorizer may require  
8 each public charter school it oversees to submit an annual  
9 report to assist the authorizer in gathering complete  
10 information about each school, consistent with the charter  
11 contract.

12 (c) In the event that a public charter school's  
13 performance or legal compliance appears unsatisfactory, the  
14 authorizer shall promptly notify the public charter school of  
15 the perceived problem and provide reasonable opportunity for the  
16 charter school to remedy the problem, unless the problem  
17 warrants revocation in which case the revocation timeframes set  
18 forth in section -18 shall apply.

19 (d) Notwithstanding section -18 to the contrary, every  
20 authorizer shall have the authority to take appropriate  
21 corrective actions or exercise sanctions short of revocation in  
22 response to apparent deficiencies in public charter school



1 performance or legal compliance. Such actions or sanctions may  
2 include, if warranted, requiring a school to develop and execute  
3 a corrective action plan within a specified timeframe.

4 (e) If there is an immediate concern for student or  
5 employee health or safety at a charter school, the authorizer,  
6 in consultation with the commission, may adopt an interim  
7 restructuring plan that may include the appointment of an  
8 interim governing board, a governing board chairperson, or a  
9 principal to temporarily assume operations of the school;  
10 provided that if possible without further jeopardizing the  
11 health or safety of students and employees, the charter school's  
12 stakeholders and community are first given the opportunity to  
13 elect a new governing board which shall appoint a new interim  
14 principal.

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

20 **§ -18 Renewals, revocations, and nonrenewals.** (a) A  
21 charter contract may be renewed for successive five-year terms  
22 of duration, although an authorizer may vary the terms based on



1 performance, demonstrated capacities, and particular  
2 circumstances of each charter school. An authorizer may grant a  
3 renewal of a charter contract with specific conditions for  
4 necessary improvements to a charter school.

5 (b) No later than \_\_\_\_\_, the authorizer shall issue a  
6 charter school performance report and charter contract renewal  
7 application guidance to any charter school whose charter  
8 contract will expire the following year. The performance report  
9 shall summarize the charter school's performance record to date,  
10 based on the data required by this chapter and the charter  
11 contract, and shall provide notice of any weaknesses or concerns  
12 perceived by the authorizer concerning the charter school that  
13 may jeopardize its position in seeking renewal if not timely  
14 rectified. The charter school shall have \_\_\_\_\_ days to respond  
15 to the performance report and submit any corrections or  
16 clarifications for the report.

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

19 (1) Present additional evidence, beyond the data contained  
20 in the performance report, supporting its case for  
21 charter renewal;







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

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

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

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

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

15 (3) Failed to meet generally accepted standards of fiscal  
16 management; or

17 (4) Substantially violated any material provision of law  
18 from which the charter school is not exempted.

19 (h) An authorizer shall develop revocation and non-renewal  
20 processes that:



- 1 (1) Provide the charter holders with a timely notification  
2 of the prospect of revocation or non-renewal and the  
3 reasons for such possible closure;
- 4 (2) Allow the charter holders a reasonable amount of time  
5 in which to prepare a response;
- 6 (3) Provide the charter holders with an opportunity to  
7 submit documents and give testimony challenging the  
8 rationale for closure and supporting the continuation  
9 of the school at an orderly proceeding held for that  
10 purpose;
- 11 (4) Allow charter holders access to representation by  
12 counsel and to call witnesses on their behalf;
- 13 (5) Permit the recording of proceedings described in  
14 paragraph (3); and
- 15 (6) After a reasonable period for deliberation, require a  
16 final determination to be made and conveyed in writing  
17 to the charter holders.
- 18 (i) If an authorizer revokes or does not renew a charter,  
19 the authorizer shall clearly state in writing the reasons for  
20 the revocation or nonrenewal.
- 21 (j) Within days of taking action to renew, not  
22 renew, or revoke a charter, the authorizer shall report to the



1 board the action taken, and shall simultaneously provide a copy  
2 of the report to the charter school. The report shall set forth  
3 the action taken and reasons for the decision and assurances as  
4 to compliance with all the requirements set forth in this  
5 chapter.

6       **§ -19 School closure and dissolution.** (a) Prior to any  
7 public charter school closure decision, an authorizer shall have  
8 developed a public charter school closure protocol to ensure  
9 timely notification to parents, orderly transition of students  
10 and student records to new schools, and proper disposition of  
11 school funds, property, and assets in accordance with the  
12 requirements of this chapter. The protocol shall specify tasks,  
13 timelines, and responsible parties, including delineating the  
14 respective duties of the school and the authorizer. In the  
15 event of a public charter school closure for any reason, the  
16 authorizer shall oversee and work with the closing school to  
17 ensure a smooth and orderly closure and transition for students  
18 and parents, as guided by the closure protocol.

19       (b) In the event of a public charter school closure for  
20 any reason, the assets of the school, excluding facilities,  
21 shall be distributed first to satisfy outstanding payroll  
22 obligations for employees of the school, then to creditors of



1 the school, and then to the state treasury to the credit of the  
2 general fund. If the assets of the school are insufficient to  
3 pay all parties to whom the school owes compensation, the  
4 prioritization of the distribution of assets may be determined  
5 by decree of a court of law.

6 (c) In the event of a public charter school closure for  
7 any reason, other public charter schools shall have the right of  
8 first refusal for the closed public charter school's facilities.  
9 If no other public charter school exercises the right of first  
10 refusal, the facilities shall revert back to the department and  
11 the State.

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

21 § -21 Annual board report. On or before of  
22 each year, the board shall issue to the governor, the



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

- 6 (1) A comparison of the performance of public charter  
7 school students with the performance of academically,  
8 ethnically, geographically, and economically  
9 comparable groups of students in public schools  
10 governed by chapter 302A;
- 11 (2) The board's assessment of the successes, challenges,  
12 and areas for improvement in meeting the purposes of  
13 this chapter, including the board's assessment of the  
14 sufficiency of funding for public charter schools, and  
15 any suggested changes in state law or policy necessary  
16 to strengthen the State's public charter schools;
- 17 (3) A line-item breakdown of all federal funds received by  
18 the department and distributed to authorizers; and
- 19 (4) Any concerns regarding equity and recommendations to  
20 improve access to and distribution of federal funds to  
21 public charter schools.



1           **§ -22 Board as final arbitrator.** (a) The board shall  
2 serve as the final arbitrator of those appeals listed in section  
3 -15.

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

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

9           **§ -23 Minimum educational data reporting standards.** The  
10 board shall establish educational reporting standards that shall  
11 include minimum standards for reporting fiscal, personnel, and  
12 student data, by means of electronic transfer of data files from  
13 charter schools to the department. The minimum standards  
14 established by the board shall include but not be limited to  
15 data required for the department, as the state education agency,  
16 to meet all applicable federal reporting requirements.

17           **§ -24 Occupancy and use of facilities of public schools.**

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



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

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

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

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

21 (c) Upon receipt of a notice pursuant to section  
22 302A-1151.5(b), the board shall solicit applications from



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

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

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

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

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

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

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

20 (e) Upon the selection of a charter school to use a vacant  
21 school facility or portion of a school facility, the department  
22 and the charter school's authorizer shall enter into necessary





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

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

11 (1) Procedures for charter schools to apply in writing to  
12 use vacant school facilities;

13 (2) Criteria for the board to use in determining which  
14 charter schools to include on the prioritized list to  
15 be submitted to the department; and

16 (3) Procedures for the board to notify charter school  
17 applicants that are granted or denied the use of  
18 vacant school facilities.

19 (g) For purposes of this section, "public school" means  
20 any school that falls within the definition of public schools in  
21 section 302A-101, except for charter schools.



1           **§ -25 Exemptions from state laws.** (a) Charter schools  
2 shall be exempt from chapters 91 and 92 and all other state laws  
3 in conflict with this chapter, except those regarding:

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

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

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

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

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

20           (3) Health and safety requirements.

21           (b) Charter schools, the commission, and authorizers shall  
22 be exempt from chapter 103D, but shall develop internal policies



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

13 (c) Charter schools and their employees, the commission  
14 and its employees, and authorizers and their employees shall be  
15 exempt from chapter 84; provided that they shall develop  
16 internal policies and procedures for gifts, confidential  
17 information, fair treatment, conflicts of interest, and  
18 contracts consistent with the goals of the state ethics code,  
19 pursuant to chapter 84. Charter schools, governing boards,  
20 authorizers, and the commission are encouraged to use the  
21 provisions of chapter 84 where possible; provided that the use  
22 of one or more provisions of chapter 84 shall not constitute a



1 waiver of the exemption from chapter 84 and shall not subject  
2 the charter school or governing board to any other provision of  
3 chapter 84.

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

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

12 § -26 **Civil service status; employee rights.** (a) Civil  
13 service employees of department schools shall retain their civil  
14 service status upon the conversion of their school to a  
15 conversion charter school. Positions in a conversion charter  
16 school that would be civil service in a department public school  
17 shall be civil service positions and subject to chapter 76. An  
18 employee with civil service status at a conversion charter  
19 school who transfers, is promoted, or takes a voluntary demotion  
20 to another civil service position shall be entitled to all of  
21 the rights, privileges, and benefits of continuous,  
22 uninterrupted civil service. Civil service employees of a



1 conversion charter school shall have civil service status in the  
2 department's civil service system and shall be entitled to all  
3 rights, privileges, and benefits as other civil service  
4 employees employed by the department. Exempt employees as  
5 provided in section 76-16(b)(11)(B) of a conversion charter  
6 school shall have support services personnel status in the  
7 department's support services personnel system and shall be  
8 entitled to all rights, privileges, and benefits as other exempt  
9 employees employed by the department in their support services  
10 personnel system.

11 (b) The State shall afford administrative, support, and  
12 instructional employees in charter schools full participation in  
13 the State's systems for retirement, workers' compensation,  
14 unemployment insurance, temporary disability insurance, and  
15 health benefits in accordance with the qualification  
16 requirements for each.

17 (c) The department, to the extent possible, shall provide  
18 its position listings to the commission, authorizers, and any  
19 interested governing board of any charter school.

20 (d) The department, in conjunction with the commission and  
21 authorizers, shall facilitate and encourage the movement of



1 instructional personnel between the department and charter  
2 schools; provided that:

3 (1) Comparable and verifiable professional development and  
4 employee evaluation standards and practices, as  
5 determined and certified by the commission or  
6 authorizer, are in place in charter schools for  
7 instructional staff;

8 (2) Licensed charter school teachers, as determined by the  
9 Hawaii teacher standards board, who are not yet  
10 tenured in the department and are entering or  
11 returning to the department after full-time employment  
12 of no less than one full school year at a charter  
13 school, shall be subject to no more than one year of  
14 probationary status; and

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

18 (e) The department shall establish a process that permits  
19 employees of department public schools that become conversion  
20 charter schools pursuant to section -14 to transfer to a  
21 department public school governed by chapter 302A.



1           **§ -27 Administration of workers' compensation.** The  
 2 department of human resources development shall administer  
 3 workers' compensation claims for employees of charter schools,  
 4 who shall be covered by the same self-insured workers'  
 5 compensation system as other public employees. The department  
 6 of human resources development shall process, investigate, and  
 7 make payments on claims; provided that:

8           (1) Charter schools shall compile the preliminary claim  
 9 form and forward it to the department of human  
 10 resources development; and

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

15           **§ -28 Funding and finance.** (a) Beginning with fiscal  
 16 year 2012-2013, and each fiscal year thereafter, the non-  
 17 facility general fund per-pupil funding request for charter  
 18 school students shall be the same as the general fund per-pupil  
 19 amount to the department in the most recently approved executive  
 20 budget recommendation for the department and shall be based upon  
 21 reasonable projected enrollment figures for all charter schools.

1 The general fund per-pupil request for each regular education  
2 and special education student shall:

3 (1) Include all general fund regular education cost  
4 categories, including comprehensive school support  
5 services, but excluding special education services,  
6 adult education, and the after-school plus program;  
7 provided that these services are provided and funded  
8 by the department; and

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

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

16 The legislature shall make an appropriation based upon the  
17 budget request; provided that the legislature may make  
18 additional appropriations for facility and other costs.

19 The governor, pursuant to chapter 37, may impose  
20 restrictions or reductions on charter school appropriations  
21 similar to those imposed on other public schools.





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

6 (1) Determine the sum of general fund appropriations made  
7 for department and charter school student non-facility  
8 costs described in subsections (a) and (b);

9 (2) Determine the sum of department and charter school  
10 student enrollment based on reviewed and verified  
11 student enrollment counts as of October 15;

12 (3) Determine a per-pupil amount by dividing the sum of  
13 general fund appropriations determined under paragraph  
14 (1) by the sum of student enrollment determined under  
15 paragraph (2);

16 (4) Transfer a general fund amount between the department  
17 and charter schools that will provide each with a per-  
18 pupil allocation equal to the amount determined on an  
19 annualized fiscal year basis under paragraph (3); and

20 (5) Annually account for all calculations and transfers  
21 made pursuant to this subsection in a report to the



1 legislature, governor, department, and charter  
2 schools.

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

5 (d) Charter schools shall be eligible for all federal  
6 financial support to the same extent as all other public  
7 schools. The department shall provide the commission and  
8 authorizers with all state-level federal grant proposals  
9 submitted by the department that include charter schools as  
10 potential recipients and timely reports on state-level federal  
11 grants received for which charter schools may apply or are  
12 entitled to receive. Federal funds received by the department  
13 for charter schools shall be transferred to authorizers for  
14 distribution to the charter schools they authorize in accordance  
15 with the federal requirements. If administrative services  
16 related to federal grants and subsidies are provided to the  
17 charter school by the department, the charter school shall  
18 reimburse the department for the actual costs of the  
19 administrative services in an amount that shall not exceed six  
20 and one-half per cent of the charter school's federal grants and  
21 subsidies.



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

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

16 (e) Authorizers shall calculate a general fund per-pupil  
17 amount based upon the amount of general funds appropriated by  
18 the legislature and released by the governor and the projected  
19 enrollment amount used to calculate the general funds  
20 appropriated pursuant to subsection (a).

21 Authorizers shall submit a report to the legislature no  
22 later than twenty days prior to the convening of each regular



1 session that contains each charter school's current school year  
2 projection that is used to submit the budget request, the  
3 updated May 15 enrollment projection, the actual October 15  
4 enrollment count, the authorizer's reviewed and verified  
5 enrollment count, and the November 15 enrollment count.

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

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

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



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

12          (g) The department shall provide appropriate transitional  
13          resources to a conversion charter school for its first year of  
14          operation as a charter school based upon the department's  
15          allocation to the school for the year prior to the conversion.

16          (h) No start-up charter school or conversion charter  
17          school may assess tuition.

18          **§ -29 Weighted student formula.** (a) Notwithstanding  
19          section -28, charter schools shall elect whether to receive  
20          allocations calculated according to the department's procedures  
21          and methodology used to calculate the weighted student formula



1 allocation adopted pursuant to section 302A-1303.6; provided  
2 that:

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

12 (2) Any election by charter schools to receive  
13 allocations, or not to receive allocations, calculated  
14 through the procedures and methodology for the  
15 department's weighted student formula shall be made by  
16 September 1 of each even-numbered year, and the  
17 election shall apply to the fiscal biennium beginning  
18 July 1 of the following year.

19 (b) The charter schools, through their authorizer, may  
20 propose to the board an alternative weighted student formula,  
21 approved by more than two-thirds of the governing boards, with  
22 each governing board being accorded one vote, to be administered



1 by the commission and to apply to the per-pupil allocation for  
2 charter schools.

3       **§ -30 Responsibilities of the department; special**  
4 **education services.** (a) The department shall collaborate with  
5 the commission to develop a system of technical assistance  
6 related to compliance with federal and state laws and access to  
7 federal and state funds. The department and the commission  
8 shall collaborate to develop a list of central services that the  
9 department may offer for purchase by a charter school at an  
10 annual cost to be negotiated between an individual charter  
11 school and the department. The department shall enter into a  
12 contract with a charter school to provide these services, which  
13 shall be renegotiated on an annual basis.

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



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

13           **§ -31 Sports.** The department shall provide students at  
14 charter schools with the same opportunity to participate in  
15 athletics as is provided to students at other public schools.  
16 If a student at a charter school wishes to participate in a  
17 sport for which there is no program at the charter school, the  
18 department shall allow that student to participate in a  
19 comparable program of any public school in the complex in which  
20 the charter school is located."

21           SECTION 3. (a) There is established a charter school  
22 administrative office, hereinafter referred to as the office,





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

18 (b) The executive director, under the direction of the  
19 state public charter school commission, and in consultation with  
20 the charter schools, shall be responsible for the internal  
21 organization, operation, and management of the charter school  
22 system, including:



- 1           (1) Preparing and executing the budget and the capital  
2           improvement projects request for the charter schools,  
3           including submission of the all means of finance  
4           budget request that reflects all anticipated  
5           expenditures to the state public charter school  
6           commission, the board of education, the governor, and  
7           the legislature; provided that, in preparing the  
8           budget request with regard to needs-based facilities  
9           funding, the executive director shall ensure that, as  
10          a budget item separate from other operating costs, the  
11          request is accompanied by a detailed explanation of  
12          the formula used and a funding request breakdown by  
13          school;
- 14          (2) Allocating annual appropriations to the charter  
15          schools and distribution of federal funds to charter  
16          schools;
- 17          (3) Complying with applicable state laws related to the  
18          administration of the charter schools;
- 19          (4) Preparing contracts between the charter schools and  
20          the department of education for centralized services  
21          to be provided by the department of education;



- 1           (5)   Preparing contracts between the charter schools and  
2                   other state agencies for financial or personnel  
3                   services to be provided by the agencies to the charter  
4                   schools;
- 5           (6)   Providing independent analyses and recommendations on  
6                   charter school issues;
- 7           (7)   Representing charter schools and the charter school  
8                   system in communications with the board of education,  
9                   the governor, and the legislature;
- 10          (8)   Providing advocacy, assistance, and support for the  
11                   development, growth, progress, and success of charter  
12                   schools and the charter school system;
- 13          (9)   Providing guidance and assistance to charter  
14                   applicants and charter schools to enhance the  
15                   completeness and accuracy of information for state  
16                   public charter school commission review;
- 17          (10)  Assisting charter applicants and charter schools in  
18                   coordinating their interactions with the state public  
19                   charter school commission, as needed;
- 20          (11)  Assisting the state public charter school commission  
21                   to coordinate with charter schools in state public



1 charter school commission investigations and  
2 evaluations of charter schools;

3 (12) Serving as the conduit to disseminate communications  
4 from the state public charter school commission, the  
5 board of education, and the department of education to  
6 all charter schools;

7 (13) Determining charter school system needs and  
8 communicating those needs to the state public charter  
9 school commission, the board of education, and the  
10 department of education;

11 (14) Establishing a dispute resolution and mediation  
12 process; and

13 (15) Upon request by one or more charter schools, assisting  
14 in the negotiation of a collective bargaining  
15 agreement with the exclusive representative of its  
16 employees.

17 (c) The executive director shall be evaluated annually by  
18 the state public charter school commission. The annual  
19 evaluation shall be conducted sufficiently in advance of the end  
20 of a term to provide the executive director the opportunity to  
21 respond to concerns and improve performance.



1 (d) The office shall withhold funds for its operational  
2 expenses, including the salaries of the executive director and  
3 staff, from the annual charter school general fund  
4 appropriation. The total amount of operational expenses  
5 withheld:

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

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

11 (3) Shall be determined annually by the state public  
12 charter school commission.

13 The salaries of the executive director and staff shall be set by  
14 the state public charter school commission based upon the  
15 recommendations of charter schools within the State and in  
16 accordance with the requirements of this subsection.

17 (e) The office shall report annually to the state public  
18 charter school commission individual and aggregate expenditures  
19 of charter schools, clearly distinguishing between expenditures  
20 for operational purposes and for instructional purposes. The  
21 office shall adopt rules to develop a standardized method for  
22 charter schools to report the expenditures and to determine



1 expenditures that constitute expenditures for operational  
2 expenses and expenditures for instructional purposes. If any  
3 charter school fails to meet the reporting requirements under  
4 this subsection, the office may retain a portion of that charter  
5 school's per-pupil allocation pursuant to section -28.

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

8 (1) Vacation and sick leave accrued by employees  
9 transferring to a charter school from another state  
10 agency or department;

11 (2) Substitute teachers needed when a teacher is out on  
12 vacation or sick leave;

13 (3) Adjustments to enrollments; and

14 (4) Arbitration in the grievance process.

15 (g) The office shall withhold funds for charter school  
16 enrollments that are inconsistent with approved charter  
17 contracts entered into pursuant to chapter , Hawaii Revised  
18 Statutes.

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



1 (i) The office may carry over funds from previous year  
2 allocations. Funds distributed to charter schools shall be  
3 considered expended.

4 PART III

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

7 "(a) For purposes of this section, "member" means any  
8 person who is appointed, in accordance with the law, to serve on  
9 a temporary or permanent state board, including members of the  
10 board of education, the [~~local school~~] governing board of any  
11 charter school established under chapter [~~302B~~], \_\_\_\_\_, council,  
12 authority, committee, or commission, established by law or  
13 elected to the board of trustees of the employees' retirement  
14 system under section 88-24, or the corporation board of the  
15 Hawaii health systems corporation under section 323F-3 and its  
16 regional system boards under section 323F-3.5; provided that  
17 "member" shall not include any person elected to serve on a  
18 board or commission in accordance with chapter 11."

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



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

4           (1) Elected or appointed official;

5           (2) Member of any board or commission; provided that  
6 nothing in this paragraph shall prohibit a member of a  
7 collective bargaining unit from serving on a [~~local~~  
8 ~~school~~] governing board of a charter school, on the  
9 state public charter school commission, or [the] as a  
10 charter school [~~review panel~~] authorizer established  
11 under chapter [302B7] \_\_\_\_\_;

12           (3) Top-level managerial and administrative personnel,  
13 including the department head, deputy or assistant to  
14 a department head, administrative officer, director,  
15 or chief of a state or county agency or major  
16 division, and legal counsel;

17           (4) Secretary to top-level managerial and administrative  
18 personnel under paragraph (3);

19           (5) Individual concerned with confidential matters  
20 affecting employee-employer relations;

21           (6) Part-time employee working less than twenty hours per  
22 week, except part-time employees included in unit (5);





- 1 (7) Temporary employee of three months' duration or less;
- 2 (8) Employee of the executive office of the governor or a  
3 household employee at Washington Place;
- 4 (9) Employee of the executive office of the lieutenant  
5 governor;
- 6 (10) Employee of the executive office of the mayor;
- 7 (11) Staff of the legislative branch of the State;
- 8 (12) Staff of the legislative branches of the counties,  
9 except employees of the clerks' offices of the  
10 counties;
- 11 (13) Any commissioned and enlisted personnel of the Hawaii  
12 national guard;
- 13 (14) Inmate, kokua, patient, ward, or student of a state  
14 institution;
- 15 (15) Student help;
- 16 (16) Staff of the Hawaii labor relations board;
- 17 (17) Employees of the Hawaii national guard youth challenge  
18 academy; or
- 19 (18) Employees of the office of elections."

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



1           "(c) For the purpose of negotiating a memorandum of  
2 agreement or a supplemental agreement that only applies to  
3 employees of a charter school, the employer shall mean the  
4 [~~local school~~] governing board, subject to the conditions and  
5 requirements contained in the applicable sections of this  
6 chapter governing any memorandum of agreement or supplemental  
7 agreement.

8           (d) Negotiations over matters covered by this section  
9 shall be conducted between the employer and exclusive  
10 representative pursuant to this chapter. Cost items that are  
11 appropriated for and approved by the legislature and contained  
12 in a collective bargaining agreement, memorandum of agreement,  
13 or supplemental agreement covering, wholly or partially,  
14 employees in charter schools shall be allocated by the  
15 department of budget and finance to [~~the~~] a charter school  
16 [~~administrative office~~] authorizer for distribution to the  
17 charter [~~schools.~~] schools it authorizers. However, if the  
18 charter school [~~administrative office~~] authorizer deems it  
19 appropriate, the cost items may be funded from a charter  
20 school's existing allocation or other sources of revenue  
21 received by a charter school."



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

3 1. By adding two new definitions to be appropriately  
4 inserted and to read:

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

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

7 2. By deleting the definitions of "charter school  
8 administrative office" or "office" and "charter school review  
9 panel" or "panel".

10 [~~"Charter school administrative office" or "office" means~~  
11 ~~the office established in section 302B-8 responsible for the~~  
12 ~~internal organization, operation, and management of the charter~~  
13 ~~school system.~~

14 [~~"Charter school review panel" or "panel" means the panel~~  
15 ~~established in section 302B-3." ]~~

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

18 "(d) The board shall appoint the state public charter  
19 school [~~review panel,~~] commission which shall serve as the  
20 statewide charter authorizer for charter schools, with the power  
21 and duty to issue charters, oversee and monitor charter schools,



1 hold charter schools accountable for their performance, and  
2 revoke charters."

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

5 "**§302A-1151 Sale of school lands unnecessary for school**  
6 **purposes.** The chairperson of the board of land and natural  
7 resources is hereby requested, upon the recommendation and  
8 approval of the superintendent, to sell any state lands,  
9 including the buildings thereon, once used but no longer  
10 necessary for school purposes; provided that no school facility  
11 or portion of a school facility shall be sold before that  
12 facility or portion of the facility is made available for use by  
13 the department or charter schools, pursuant to sections 302A-  
14 1151.5 and [~~302B-3.6.~~]       -24."

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

18 "(b) The department shall submit a notice of possible  
19 availability of a public school to the [~~charter school review~~  
20 ~~panel~~] board as early as possible; provided that if a vacancy is  
21 established, a notice of vacancy shall be submitted to the



1 ~~[charter school review panel]~~ board no later than thirty days  
2 after the establishment of the vacancy.

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

11 (d) Upon the selection of a charter school to use a vacant  
12 school facility or portion of a school facility, the department  
13 and the ~~[charter school review panel]~~ selected charter school's  
14 governing board shall enter into necessary agreements within  
15 ninety days of the selection to carry out the purposes of this  
16 section.

17 (e) After receipt by the ~~[charter school review panel]~~  
18 board of a notice pursuant to subsection (b), if the ~~[charter~~  
19 ~~school review panel]~~ board does not ~~[provide]~~ compile a  
20 prioritized list of charter schools because no charter school  
21 has requested to use the facilities of the public school, or if  
22 the ~~[department receives the prioritized list but]~~ board



1 determines that no charter school on the list is an appropriate  
2 candidate to occupy and use the facilities, the department shall  
3 give reasonable consideration to making all or portions of the  
4 facilities of the public school, if closed, available for  
5 occupancy and use for other educational purposes."

6 SECTION 11. Section 302A-1303.6, Hawaii Revised Statutes,  
7 is amended to read as follows:

8 "**§302A-1303.6 Weighted student formula.** Based upon  
9 recommendations from the committee on weights, the board of  
10 education, not less than once every odd-numbered year, shall  
11 adopt a weighted student formula for the allocation of moneys to  
12 public schools that takes into account the educational needs of  
13 each student. The department, upon the receipt of appropriated  
14 moneys, shall use the weighted student formula to allocate funds  
15 to public schools. Principals shall expend moneys provided to  
16 the principals' schools. This section shall only apply to  
17 charter schools for fiscal years in which the charter schools  
18 elect pursuant to section [~~302B-13~~]       -29 to receive  
19 allocations according to the weighted student formula."

20 SECTION 12. Section 302A-1403, Hawaii Revised Statutes, is  
21 amended to read as follows:



1           "**§302A-1403 Authority to secure federal funds.** The  
2 department, the state public charter school [~~administrative~~  
3 ~~office,~~] commission, a charter school authorizer, director of  
4 finance, and governor may take such steps and perform such acts  
5 as may be necessary or proper to secure any such federal funds  
6 for the purposes specified in sections 302A-1401 and 302A-1402."

7           SECTION 13. Section 302A-1404, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

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

18           SECTION 14. Section 302A-1505, Hawaii Revised Statutes, is  
19 amended by amending subsection (b) to read as follows:

20           "(b) Prior to informing the department about the school's  
21 repair and maintenance needs, the school's principal shall  
22 consider the recommendations made by the school community



1 council or the [~~local school~~] governing board, if the school is  
2 a charter school."

3 SECTION 15. Chapter 302B, Hawaii Revised Statutes, is  
4 repealed.

5 PART IV

6 SECTION 16. Notwithstanding any law to the contrary, the  
7 members of the charter school review panel serving on the day of  
8 the effective date of this Act shall serve on the state public  
9 charter school commission until the appointment of no fewer than  
10 five members to the state public charter school commission  
11 pursuant to section 2 this Act, at which time all members of the  
12 charter school review panel shall be discharged from service and  
13 the members of the state public charter school commission shall  
14 begin their service; provided that any vacancy in the charter  
15 school review panel occurring between the effective date of this  
16 Act and the discharge from office of all charter school review  
17 panel members shall remain vacant until appointed to the state  
18 public charter school commission by the board of education  
19 pursuant to this Act.

20 SECTION 17. All rights, powers, functions, and duties of  
21 the charter school administrative office as established pursuant  
22 to section 302B-8, Hawaii Revised Statutes, are transferred to





1 the charter school administrative office as established pursuant  
2 to section 3 of this Act.

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

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

17 An officer or employee of the State who does not have  
18 tenure and who may be transferred or appointed to a civil  
19 service position as a consequence of this Act shall become a  
20 civil service employee without the loss of salary, seniority,  
21 prior service credit, vacation, sick leave, or other employee  
22 benefits or privileges and without the necessity of examination;



1 provided that such officer or employee possesses the minimum  
2 qualifications for the position to which transferred or  
3 appointed.

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

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

21 SECTION 19. As of the effective date of this Act, all  
22 moneys in the charter schools account established pursuant to



1 section 302B-12(i), Hawaii Revised Statutes, shall be  
2 transferred to the general fund of the State of Hawaii.

3 SECTION 20. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 21. This Act shall take effect upon its approval;  
6 provided that section 3 of this Act shall be repealed on July 1,  
7 2013.



**Report Title:**

Education; Charter Schools

**Description:**

Establishes a new chapter governing charter schools based on the recommendations of the charter school governance, accountability, and authority task force established by Act 130, Session Laws of Hawaii 2011. Repeals chapter 302B, HRS. Maintains the charter school administrative office until July 1, 2013. Transfers all funds in the charter schools account established pursuant to section 302B-12(i), HRS, to the general fund. Makes housekeeping amendments. (SB2114 HD1)

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

