



EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

GOV. MSG. NO. 1200

June 18, 2014

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 18, 2014, the following bill was signed into law:

HB1745 HD2 SD2 CD1

RELATING TO EDUCATION
ACT 099 (14)

Neil Abercrombie
Secretary,
Neil Abercrombie

NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor
on JUN 18 2014
HOUSE OF REPRESENTATIVES
TWENTY-SEVENTH LEGISLATURE, 2014
STATE OF HAWAII

ACT 099
H.B. NO. 1745
H.D. 2
S.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO EDUCATION.

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

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

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

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

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

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



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

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

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

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

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



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

5 (1) Shall not be entitled to receive funding under section
6 302D-26, 302D-28, 302D-29, or 302D-29.5;

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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



1 "Conversion charter school" means:

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

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

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

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

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

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

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

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



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

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

5 **"§302D-3 State public charter school commission;**
6 **establishment; appointment.** (a) There is established the state
7 public charter school commission with statewide chartering
8 jurisdiction and authority. The commission shall be placed
9 within the department for administrative purposes only.
10 Notwithstanding section 302D-25 and any law to the contrary, the
11 commission shall be subject to chapter 92.

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

8 ~~+(k)] (j)~~ The commission shall operate with dedicated
9 resources and staff qualified to execute the day-to-day
10 responsibilities of the commission pursuant to this chapter.
11 Beginning with the 2015-2016 fiscal year, the legislature shall
12 make an appropriation to the commission separate from, and in
13 addition to, any appropriation made to charter schools pursuant
14 to sections 302D-28 and 302D-29.5.

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

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



1 **"§302D-5 Authorizer powers, duties, and liabilities. (a)**

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

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

18 (b) An authorizer shall:

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



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

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

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

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

15 ~~(d)~~ (d) An authorizer may delegate its duties to
16 officers, employees, and contractors.

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

20 ~~(f)~~ (f) An authorizer, members of the board of an
21 authorizer acting in their official capacity, and employees or
22 agents of an authorizer are immune from civil and criminal



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

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

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

16 "[~~f~~]S302D-7[~~f~~] **Authorizer reporting.** Every authorizer
17 shall be required to submit to the board and the legislature an
18 annual report summarizing:

- 19 (1) The authorizer's strategic vision for chartering and
20 progress toward achieving that vision;
- 21 (2) The academic [~~and financial~~] performance of all
22 operating public charter schools overseen by the



1 authorizer, according to the performance expectations
2 for public charter schools set forth in this
3 chapter~~[+]~~, including a comparison of the performance
4 of public charter school students with public school
5 students statewide;

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

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

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



1 ~~[(5)]~~ (6) The services purchased from the authorizer by the
2 public charter schools under its purview;

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

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

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

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

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

1 **"§302D-12 Charter school governing boards; powers and**
2 **duties.** (a) ~~[No more than one third of the voting members of a~~
3 ~~governing board shall be employees of a school or relatives of~~
4 ~~employees of a school under the jurisdiction of that governing~~
5 ~~board.]~~ No person may serve on the governing board of a charter
6 school if the person is an employee or former employee of any
7 charter school under the jurisdiction of that governing board, a
8 relative of an employee or former employee of any charter school
9 under the jurisdiction of that governing board, or any vendor or
10 contractor providing goods or services to any charter school
11 under the jurisdiction of that governing board, unless:

12 (1) The person is a former employee of a charter school
13 under the jurisdiction of that governing board and at
14 least one year has passed since the conclusion of the
15 former employee's employment with that charter school;

16 (2) The person is a relative of a former employee of a
17 charter school under the jurisdiction of that
18 governing board and at least one year has passed since
19 the conclusion of the former employee's employment
20 with that charter school;

21 (3) The person is a vendor or contractor and at least one
22 year has passed since the conclusion of the vendor or



1 contractor's service to a charter school under the
2 jurisdiction of that governing board; or

3 (4) The person's serving on the governing board shall not
4 cause more than one-third of the voting members of the
5 governing board to be made up of:

6 (A) Employees or former employees of any charter
7 school that is under the jurisdiction of that
8 governing board; provided that this subparagraph
9 shall not include persons who are covered under
10 paragraph (1);

11 (B) Relatives of employees or of former employees of
12 any charter school that is under the jurisdiction
13 of that governing board; provided that this
14 subparagraph shall not include persons who are
15 covered under paragraph (2); and

16 (C) Vendors or contractors who are providing goods or
17 services to any charter school that is under the
18 jurisdiction of that governing board; provided
19 that this subparagraph shall not include persons
20 who are covered under paragraph (3).

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



- 1 (1) Provide the governing board with a diversity of
2 perspective and a level of objectivity that accurately
3 represent the interests of the charter school students
4 and the surrounding community;
- 5 (2) Demonstrate an understanding of best practices of
6 nonprofit governance; and
- 7 (3) Possess strong financial and academic management and
8 oversight abilities, as well as human resource and
9 fundraising experience.

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

21 (d) Section 78-4 shall not apply to members of governing
22 boards; provided that no governing board member shall be allowed



1 to serve on more than two governing boards simultaneously. For
2 purposes of this subsection, a governing board that governs more
3 than one charter school shall be considered one board.

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

16 [~~(d)~~] (f) Governing boards and charter schools shall be
17 exempt from chapter 103D, but shall develop internal policies
18 and procedures for the procurement of goods, services, and
19 construction, consistent with the goals of public accountability
20 and public procurement practices. Governing boards and charter
21 schools are encouraged to use the provisions of chapter 103D
22 wherever possible; provided that the use of one or more



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

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

7 (1) Hold meetings open to the public;

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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



1 gifts, fair treatment or misuse of position, and conflicts of
2 interest, and shall be incorporated into and made part of any
3 contract or arrangement between the charter school or governing
4 board and the private organization for those services."

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

7 "**§302D-13 Start-up charter schools; establishment.** (a)

8 New start-up charter schools may be established pursuant to this
9 section.

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

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

19 (1) The submission of a letter of intent to operate a
20 start-up charter school;

21 (2) The availability of the charter application form and
22 completion guidelines on the authorizer's website;



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



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

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

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

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

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

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

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

20 (B) Incorporates or exceeds the educational content
21 and performance standards developed by the
22 department for the public school system;



- 1 (C) Includes a system of faculty and staff
2 accountability that holds faculty and staff
3 individually and collectively accountable for
4 their performance, and that is at least
5 equivalent to the average system of
6 accountability in public schools throughout the
7 State; and
- 8 (D) Provides for program audits and annual financial
9 audits;
- 10 (6) A governance structure for the charter school that
11 incorporates a conflict of interest policy and a plan
12 for periodic training to carry out the duties of
13 governing board members;
- 14 (7) A description of the constitution of the governing
15 board, terms of governing board members, and the
16 process by which governing board members were
17 selected;
- 18 (8) A financial plan based on the most recent fiscal
19 year's per-pupil charter school allocation that
20 demonstrates the ability to meet the financial
21 obligations of one-time, start-up costs and ongoing



1 costs such as monthly payrolls, faculty recruitment,
2 professional development, and facilities costs; and
3 (9) A facilities plan.

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

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

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

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



1 "§302D-14 Conversion charter schools; establishment. (a)

2 A conversion charter school may be established pursuant to this
3 section.

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

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

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

15 (2) The availability of the charter application form and
16 completion guidelines on the authorizer's website;

17 (3) The timely submission of a completed charter
18 application to the authorizer; provided that the
19 charter application shall include certification and
20 documentation that the charter application was
21 approved by a majority of the votes cast by existing
22 administrative, support, and teaching personnel, and



1 parents of students at the existing department school;
2 provided that:

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

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

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

19 (4) The timely review of the charter application by the
20 authorizer for completeness, and notification by the
21 authorizer to the governing board that the charter
22 application is complete;



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



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



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



- 1 (1) As the governing body of the conversion charter
2 school, the governing board shall be the board of
3 directors of the nonprofit organization and shall not
4 be selected pursuant to section 302D-12. The
5 nonprofit organization may also appoint advisory
6 groups of community representatives for each school
7 managed by the nonprofit organization; provided that
8 these groups shall not have governing authority over
9 the school and shall serve only in an advisory
10 capacity to the nonprofit organization;
- 11 (2) The charter application for each conversion charter
12 school to be operated by the nonprofit organization
13 shall be formulated, developed, and submitted by the
14 nonprofit organization, and shall be approved by a
15 majority of the votes cast by existing administrative,
16 support, and teaching personnel, and parents of
17 students of the existing department school; provided
18 that:
- 19 (A) This vote shall be considered by the authorizer
20 to be the primary indication of the existing
21 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 extent of support received in
5 support of the conversion shall be a key factor,
6 along with the applicant's proposed plans, in an
7 authorizer's decision to award a charter; and

8 (C) A breakdown of the number of administrative,
9 support, and teaching personnel, and parents of
10 students who constitute the existing department
11 school and the number who actually participated
12 in the vote shall be provided to the authorizer;

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

18 (4) Any conversion charter school that is managed and
19 operated by a nonprofit organization shall be eligible
20 for the same federal and state funding as other public
21 schools; provided that nothing in this section shall
22 prohibit a nonprofit organization from making a



1 contribution toward the operation of a conversion
2 charter school; and

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

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

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

18 (2) Have experience in the management and operation of
19 public or private schools or, to the extent necessary,
20 agree to obtain appropriate services from another
21 entity or entities possessing such experience;



1 (3) Comply with all applicable federal, state, and county
2 laws, including licensure or accreditation, as
3 applicable; and

4 (4) Comply with any other requirements prescribed by the
5 department to ensure adherence with applicable
6 federal, state, and county laws, and the purposes of
7 this chapter.

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

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

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



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

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

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

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

- 17 (1) Student academic proficiency;
18 (2) Student academic growth;
19 (3) Achievement gaps in proficiency and growth between
20 major student subgroups;
21 (4) Attendance;
22 (5) Enrollment variance;



- 1 (6) Postsecondary readiness, as applicable for high
2 schools;
- 3 (7) Financial performance and sustainability;
- 4 (8) Performance and stewardship, including compliance with
5 all applicable laws, rules, and terms of the charter
6 contract; and
- 7 (9) Organizational viability.

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

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

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

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

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



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

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

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

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

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

17 (A) Reconstitution occurs only under exigent
18 circumstances, including the following:

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

21 (ii) Unlawful or unethical conduct by the charter
22 school's personnel that raises serious



1 doubts about the governing board's ability
2 to fulfill its statutory, contractual, or
3 fiduciary responsibilities; and

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

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

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



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

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

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



1 "(b) The authorizer shall issue a charter school
2 performance report and charter contract renewal application
3 guidance to any charter school whose charter contract [~~will~~
4 ~~expire the following~~] is in its final contract year. The
5 performance report shall summarize the charter school's
6 performance record to date, based on the data required by this
7 chapter and the charter contract, and shall provide notice of
8 any weaknesses or concerns perceived by the authorizer
9 concerning the charter school that may jeopardize its position
10 in seeking renewal."

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

13 "**§302D-21 Annual board report.** No later than twenty days
14 prior to the convening of each regular session of the
15 legislature, the board shall issue to the governor, the
16 legislature, and the public, an annual report on the State's
17 public charter schools, drawing from the annual reports
18 submitted by every authorizer, as well as any additional
19 relevant data compiled by the board, for the school year ending
20 in the preceding calendar year. The annual report shall
21 include:



1 ~~[(1)] A comparison of the performance of public charter~~
2 ~~school students with the performance of comparable~~
3 ~~subgroups of students in public schools governed by~~
4 ~~chapter 302A;~~

5 (2) (1) The board's assessment of the successes,
6 challenges, and areas for improvement in meeting the
7 purposes of this chapter, including the board's
8 assessment of the sufficiency of funding for public
9 charter schools, and any suggested changes in state
10 law or policy necessary to strengthen the State's
11 public charter schools;

12 ~~[(3)]~~ (2) A line-item breakdown of all federal funds
13 received by the department and distributed to
14 authorizers;

15 ~~[(4)]~~ (3) Any concerns regarding equity and recommendations
16 to improve access to and distribution of federal funds
17 to public charter schools; and

18 ~~[(5)]~~ (4) A discussion of all board policies adopted in the
19 previous year, including a detailed explanation as to
20 whether each policy is or is not applicable to charter
21 schools."



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

3 "[f]§302D-24[+] Occupancy and use of facilities of
4 [public] department schools. (a) When the department considers
5 whether to close any particular [public] department school, the
6 department shall submit a notice of possible availability of a
7 [public] department school or notice of vacancy of a [public]
8 department school to the board pursuant to section
9 302A-1151.5(b); provided that the department has not elected to
10 use the [public] department school to support education
11 programs.

12 (b) If a charter school exclusively or jointly occupies or
13 uses buildings or facilities of a [public] department school
14 immediately prior to converting to a charter school, upon
15 conversion that charter school shall be given continued
16 exclusive or joint use of the buildings or facilities; provided
17 that:

- 18 (1) The State may reclaim some or all of the buildings or
19 facilities if it demonstrates a tangible and
20 imperative need for such reclamation; and
21 (2) The State and the conversion charter school
22 voluntarily enter into an agreement detailing the



1 portion of those buildings or facilities that shall be
2 reclaimed by the State and a timetable for the
3 reclamation. If a timetable cannot be reached, the
4 State may petition the board for the reclamation, and
5 the board may grant the petition only to the extent
6 that it is not possible for the conversion charter
7 school and the State to jointly occupy or use the
8 buildings or facilities.

9 (c) Upon receipt of a notice pursuant to section
10 302A-1151.5(b), the board shall solicit applications from
11 charter schools interested in using and occupying all or
12 portions of the facilities of the [~~public~~] department school by:

- 13 (1) Promptly notifying all charter schools that the
14 [~~public~~] department school is being considered for
15 closure; and
- 16 (2) Affording each charter school an opportunity to submit
17 an application with a written explanation and
18 justification of why the charter school should be
19 considered for possible occupancy and use of the
20 facilities of the [~~public~~] department school.



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

4 (1) Provide a written response to each charter school's
5 application after each application has been fully
6 considered;

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

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

11 (e) Upon the selection of a charter school to use a vacant
12 department school facility or portion of a department school
13 facility, the department and the charter school's authorizer
14 shall enter into necessary agreements within ninety days of the
15 selection to carry out the purposes of this section; provided
16 that any agreement between the authorizer and the department
17 shall stipulate that a charter school that uses and occupies a
18 ~~[public]~~ department school facility or portion of a ~~[public]~~
19 department school facility shall be responsible for the full or
20 pro rata share of the repair and maintenance costs for that
21 facility or portion of the facility, as the case may be.



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

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

6 (2) Criteria for the board to use in determining which
7 charter schools to include on the prioritized list to
8 be submitted to the department; and

9 (3) Procedures for the board to notify charter school
10 applicants that are granted or denied the use of
11 vacant department school facilities.

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

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

17 "[+]§302D-25[+] **Applicability of state laws.** (a) Charter
18 schools shall be exempt from chapters 91 and 92 and all other
19 state laws in conflict with this chapter, except those
20 regarding:

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



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

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

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

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

16 (3) Health and safety requirements.

17 (b) Charter schools, the commission, and authorizers shall
18 be exempt from chapter 103D, but shall develop internal policies
19 and procedures for the procurement of goods, services, and
20 construction, consistent with the goals of public accountability
21 and public procurement practices. Charter schools, the
22 commission, and authorizers are encouraged to use the provisions



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

9 (c) Charter schools and their employees, the commission
10 and its employees, and governing boards and their members shall
11 be subject to chapter 84.

12 (d) Any charter school, prior to the beginning of the
13 school year, may enter into an annual contract with any
14 department for centralized services to be provided by that
15 department.

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

20 (f) Charter schools, the commission, and authorizers shall
21 be exempt from section 302A-1401.



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

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

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



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

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

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

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

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

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

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

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



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

15 Any charter school shall be eligible to receive any
16 supplemental federal grant or award for which any [~~other public~~]
17 department school may submit a proposal, or any supplemental
18 federal grants limited to charter schools; provided that if
19 department administrative services, including funds management,
20 budgetary, fiscal accounting, or other related services, are
21 provided with respect to these supplemental grants, the charter
22 school shall reimburse the department for the actual costs of



1 the administrative services in an amount that shall not exceed
2 six per cent of the supplemental grant for which the services
3 are used.

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

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

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

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

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



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

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

19 "[+]§302D-29.5[+] **Facilities funding.** (a) Beginning with
20 fiscal year 2014-2015 and each fiscal year thereafter, the
21 commission may request facilities funding for charter schools as
22 part of its annual budget request to the director of finance[-]



1 and may receive, expend, or allocate any funds provided by the
2 facilities funding request.

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

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

8 (d) This section shall not limit the ability of the
9 director of finance to modify or amend any allotment pursuant to
10 chapter 37.

11 (e) The commission shall develop criteria to determine the
12 distribution of funds appropriated pursuant to subsection (b) to
13 the charter schools. The criteria shall include but not be
14 limited to distribution based on the need and performance of the
15 charter schools.

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

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

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



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

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

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



1 **"§302D-31 Athletics.** The department shall provide
2 students at charter schools, including students enrolled at
3 charter schools whose curriculum incorporates virtual education,
4 with the same opportunity to participate in athletics as is
5 provided to students at [~~other public~~] department schools. If a
6 student at any charter school wishes to participate in a sport
7 for which there is no program at the charter school, the
8 department shall allow that student to participate in a
9 comparable program [~~of any public school in the complex in which~~
10 ~~the charter school is located or~~] at the [~~public~~] department
11 school in the service area in which the student resides. All
12 charter school students participating in athletics shall abide
13 by all rules, regulations, and policies of the athletic league,
14 association, and program applicable to the [~~public~~] department
15 school in whose athletic program the student is participating."

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

18 "~~[+]§302D-32[+]~~ **Annual audit[-] or financial review.** Each
19 charter school shall annually complete an independent financial
20 audit that complies with the requirements of its authorizer and
21 the department[-]; provided that the authorizer shall have the



1 discretion to allow a financial review in lieu of an independent
2 financial audit."

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

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

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

8 (2) Shall enroll all students who submit an application,
9 unless the number of students who submit an
10 application exceeds the capacity of a program, class,
11 grade level, or building;

12 (3) Shall select students through a public lottery if, as
13 described in paragraph (2), capacity is insufficient
14 to enroll all students who have submitted a timely
15 application;

16 (4) May give an enrollment preference to students within a
17 given age group or grade level and may be organized
18 around a special emphasis, theme, or concept as stated
19 in the charter school's application and as approved by
20 the charter school's authorizer;

21 (5) May give an enrollment preference to students enrolled
22 in the charter school during the previous school year

1 and to siblings of students already enrolled at the
2 charter school; and

3 (6) May give any other enrollment preference permitted by
4 the charter school's authorizer, on an individual
5 charter school basis, if consistent with law;
6 provided that nothing in this subsection shall preclude the
7 formation of a start-up charter school whose mission is focused
8 on serving students with disabilities, who are of the same
9 gender, who pose such severe disciplinary problems that they
10 warrant a specific educational program, or who are at a risk of
11 academic failure.

12 (c) A conversion charter school shall:

13 (1) Enroll any student who resides within the school's
14 former geographic service area pursuant to section
15 302A-1143, for the grades that were in place when the
16 [~~public~~] department school converted to a charter
17 school; provided that the department may consult with
18 a conversion charter school every three years to
19 determine whether realignment of the charter school's
20 service area is appropriate given population shifts
21 and the department's overall service area reviews;



- 1 (2) Follow the department's procedures regarding
2 enrollment, including but not limited to geographic
3 exceptions and enrollment preferences; and
4 (3) Be subject to subsection (b) for grades that were not
5 in place when the school converted to a public charter
6 school."

7 SECTION 24. Section 302D-2, Hawaii Revised Statutes, is
8 repealed.

9 ["~~§302D-2 Existing charter schools. Any charter school
10 holding a charter to operate under part IV, subpart D, of
11 chapter 302A, as that subpart existed before July 11, 2006, and
12 any charter school holding a charter to operate under chapter
13 302B as it existed before June 19, 2012, shall be considered a
14 charter school for the purposes of this chapter under a charter
15 contract with the commission unless the charter contract is
16 revoked, transferred to another authorizer, or not renewed, or
17 the charter school voluntarily closes.~~"]

18 SECTION 25. The state public charter school commission
19 shall submit a report to the chairs of the senate committee on
20 ways and means, senate committee on education, house committee
21 on finance, and house committee on education, on the
22 commission's staffing and operational expenditures by the



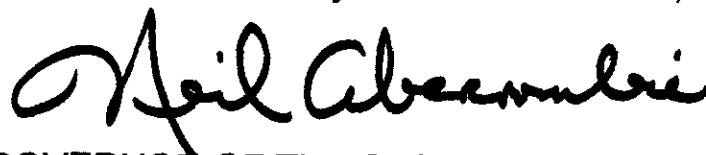
1 twentieth day after the commission submits its 2015-2016 budget
2 request to the governor or December 1, 2014, whichever is
3 earlier.

4 SECTION 26. In codifying the new sections added by section
5 1 of this Act, the revisor of statutes shall substitute
6 appropriate section numbers for the letters used in designating
7 the new sections in this Act.

8 SECTION 27. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 28. This Act shall take effect on July 1, 2014.

APPROVED this 18 day of JUN, 2014



GOVERNOR OF THE STATE OF HAWAII

