

JAN 24 2013

A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

1 SECTION 1. Chapter 37, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§37- Charter schools; carryover of funds. (a) Charter
5 schools may carry over up to five per cent of any appropriation,
6 except for appropriations to fund financing agreements entered
7 into in accordance with chapter 37D, at the close of a fiscal
8 year and the funds retained shall not lapse until June 30 of the
9 first fiscal year of the next fiscal biennium. Each authorizer
10 of a charter school shall submit:

11 (1) A report to the director of finance ninety days after
12 the close of each fiscal year, which shall be prepared
13 in the form prescribed by the director of finance and
14 shall identify the total amount of funds that will
15 carry over to the next fiscal year for each charter
16 school under the authorizer's jurisdiction; and



1 (2) A copy of the report required by paragraph (1) to the
2 legislature no later than twenty days prior to the
3 convening of the next regular session.

4 (b) Appropriations allocated to the charter schools shall
5 remain within the budget of the charter school to which they
6 were originally appropriated; provided that the retention of an
7 appropriation shall not be used as a basis for reducing a
8 charter school's future budget requirements."

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

12 "§302D- Annual audit. Charter schools shall annually
13 complete an independent financial audit that complies with the
14 requirements of its authorizer and the department.

15 §302D- Enrollment. (a) A public charter school shall
16 not discriminate against any student or limit admission based on
17 race, color, ethnicity, national origin, religion, gender,
18 sexual orientation, income level, disability, level of
19 proficiency in the English language, need for special education
20 services, or academic or athletic ability.

21 (b) A start-up charter school:
22 (1) Shall be open to any student residing in the State;



- 1 (2) Shall enroll all students who submit an application,
2 unless the number of students who submit an
3 application exceeds the capacity of a program, class,
4 grade level, or building;
- 5 (3) Shall select students through a public lottery if, as
6 described in paragraph (2), capacity is insufficient
7 to enroll all students who have submitted a timely
8 application;
- 9 (4) May give an enrollment preference to students within a
10 given age group or grade level and may be organized
11 around a special emphasis, theme, or concept as stated
12 in the charter school's application and as approved by
13 the charter school's authorizer;
- 14 (5) May give an enrollment preference to students enrolled
15 in the charter school during the previous school year
16 and to siblings of students already enrolled at the
17 charter school; and
- 18 (6) May give any other enrollment preference permitted by
19 the charter school's authorizer, on an individual
20 charter school basis, if consistent with law;
- 21 provided that nothing in this subsection shall preclude the
22 formation of a start-up charter school whose mission is focused



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

5 (c) A conversion charter school shall:

6 (1) Enroll any student who resides within the school's
7 former geographic service area pursuant to section
8 302A-1143, for the grades that were in place when the
9 public school converted to a charter school; provided
10 that the department may consult with a conversion
11 charter school every three years to determine whether
12 realignment of the charter school's service area is
13 appropriate given population shifts and the
14 department's overall service area reviews;

15 (2) Follow the department's procedures regarding
16 enrollment, including but not limited to geographic
17 exceptions and enrollment preferences; and

18 (3) Be subject to subsection (b) for grades that were not
19 in place when the school converted to a public charter
20 school."

21 SECTION 3. Section 302A-1132, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) Unless excluded from school or excepted from
2 attendance, all children who will have arrived at the age of at
3 least six years, and who will not have arrived at the age of
4 eighteen years, by January 1 of any school year, shall attend
5 either a public school, public charter school, or private school
6 for, and during, the school year, and any parent, guardian, or
7 other person having the responsibility for, or care of, a child
8 whose attendance at school is obligatory shall send the child to
9 either a public or private school. Attendance at a public or
10 private school shall not be compulsory in the following cases:

11 (1) Where the child is physically or mentally unable to
12 attend school (deafness and blindness excepted), of
13 which fact the certificate of a duly licensed
14 physician shall be sufficient evidence;

15 (2) Where the child, who has reached the fifteenth
16 anniversary of birth, is suitably employed and has
17 been excused from school attendance by the
18 superintendent or the superintendent's authorized
19 representative, or by a family court judge;

20 (3) Where, upon investigation by the family court, it has
21 been shown that for any other reason the child may
22 properly remain away from school;



- 1 (4) Where the child has graduated from high school;
- 2 (5) Where the child is enrolled in an appropriate
- 3 alternative educational program as approved by the
- 4 superintendent or the superintendent's authorized
- 5 representative in accordance with the plans and
- 6 policies of the department, or notification of intent
- 7 to home school has been submitted to the principal of
- 8 the public school that the child would otherwise be
- 9 required to attend in accordance with department rules
- 10 adopted to achieve this result; or
- 11 (6) Where:
- 12 (A) The child has attained the age of sixteen years;
- 13 (B) The principal has determined that:
- 14 (i) The child has engaged in behavior which is
- 15 disruptive to other students, teachers, or
- 16 staff; or
- 17 (ii) The child's non-attendance is chronic and
- 18 has become a significant factor that hinders
- 19 the child's learning; and
- 20 (C) The principal of the child's school, and the
- 21 child's teacher or counselor, in consultation
- 22 with the child and the child's parent, guardian,



1 or other adult having legal responsibility for or
2 care of the child, develops an alternative
3 educational plan for the child. The alternative
4 educational plan shall include a process that
5 shall permit the child to resume school.

6 The principal of the child's school shall file the
7 plan made pursuant to subparagraph (C) with the
8 child's school record. If the adult having legal
9 responsibility for or care of the child disagrees with
10 the plan, then the adult shall be responsible for
11 obtaining appropriate educational services for the
12 child."

13 SECTION 4. Section 302D-1, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By amending the definitions of "authorizer" and
16 "charter school" or "public charter school" and "organizational
17 viability" to read:

18 ""Authorizer" means an entity established under this
19 chapter with chartering authority to review charter
20 applications, decide whether to approve or [~~reject~~] deny charter
21 applications, enter into charter contracts with applicants,
22 oversee public charter schools, and decide whether to authorize,



1 ~~[reauthorize,]~~ renew, deny renewal of, or ~~[reject]~~ revoke
2 charter contracts. The term may include the commission when
3 appropriate.

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

13 "Organizational viability" means that a charter school:

- 14 (1) Has been duly constituted and operates in accordance
15 with its charter;
- 16 (2) Has a governing board established in accordance with
17 law and the charter school's charter;
- 18 (3) Employs sufficient faculty and staff to provide the
19 necessary educational program and support services to
20 operate the facility in accordance with its charter;



- 1 (4) Maintains accurate and comprehensive records regarding
2 students and employees as determined by its
3 authorizer;
- 4 (5) Meets appropriate standards of student achievement as
5 defined by the board pursuant to its duties under
6 article X, section 3, of the constitution of the State
7 of Hawaii;
- 8 (6) Cooperates with board and authorizer requirements in
9 conducting its functions;
- 10 (7) Complies with applicable federal, state, and county
11 laws and requirements;
- 12 (8) In accordance with authorizer guidelines and
13 procedures, is financially sound and fiscally
14 responsible in its use of public funds, maintains
15 accurate and comprehensive financial records, operates
16 in accordance with generally accepted accounting
17 practices, and maintains a sound financial plan;
- 18 (9) Operates within the scope of its charter contract and
19 fulfills obligations and commitments of its charter;
- 20 (10) Complies with all health and safety laws and
21 requirements;



1 (11) Complies with all authorizer directives, policies, and
2 procedures; and

3 (12) Complies with all board policies deemed applicable to
4 charter schools by the board."

5 2. By deleting the definition of "executive director".

6 [~~"Executive director" means the executive director of the~~
7 ~~state public charter school commission."~~]

8 SECTION 5. Section 302D-3, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[+]§302D-3[+] **State public charter school commission;**
11 **establishment; appointment.** (a) There is established the state
12 public charter school commission with statewide chartering
13 jurisdiction and authority. The commission shall be placed
14 within the department for administrative purposes only.

15 Notwithstanding section 302D-25 and any law to the contrary, the
16 commission shall be subject to chapter 92.

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

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



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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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

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



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

3 (j) ~~[The commission shall establish operating procedures~~
4 ~~that shall include conflict of interest procedures for any~~
5 ~~member whose school of employment or governing board is before~~
6 ~~the commission.]~~ Commission members shall disclose to the
7 commission a list of all charter schools in which the member is
8 an employee, governing board member, vendor, contractor, agent,
9 or representative. Any member having such interest in any
10 matter before the commission shall be disqualified from voting
11 on or participating in the discussion of the matter.

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

15 (l) The commission shall have the power to hire staff
16 without regard to chapters 76 and 89."

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

19 "[~~§~~302D-6~~]~~ **Principles and standards for charter**
20 **authorizing.** All authorizers shall be required to [~~develop and~~
21 ~~maintain chartering policies and practices consistent with]~~
22 follow nationally recognized principles and standards for



1 quality charter authorizing in all major areas of authorizing
2 responsibility including:

- 3 (1) Organizational capacity and infrastructure;
- 4 (2) Soliciting and evaluating charter applications;
- 5 (3) Performance contracting;
- 6 (4) Ongoing public charter school oversight and
7 evaluation; and
- 8 (5) Charter and charter contract renewal decision-making.

9 Authorizers shall carry out all their duties under this
10 chapter in a manner consistent with nationally recognized
11 principles and standards and with the spirit and intent of this
12 chapter. Evidence of material or persistent failure to do so
13 shall constitute grounds for losing charter authorizing powers."

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

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

17 "(a) No more than [~~thirty per cent~~] one-third of the
18 voting members of a governing board shall be employees of a
19 school or relatives of employees of a school under the
20 jurisdiction of that governing [~~board, provided that the chief~~
21 ~~executive officer, chief administrative officer, executive~~
22 ~~director, or otherwise designated head of a charter school may~~



1 ~~serve as an ex officio, non-voting member of the governing]~~
2 board. In selecting members, consideration shall be given to
3 persons who:

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

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

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



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

3 3. By amending subsection (h) to read:

4 "(h) For purposes of this section[~~,"employees" shall~~]:

5 "Employees" shall include but not be limited to the chief
6 executive officer, chief administrative officer, executive
7 director, or otherwise designated head of a charter school[~~;~~]
8 and shall include any person under an employment contract to act
9 as the chief executive officer, chief administrative officer,
10 executive director, or designated head of a charter school.

11 "Relative" means a spouse, fiancé, fiancée, any relative
12 within four degrees of consanguinity or the spouse, fiancé, or
13 fiancée of such a relative."

14 SECTION 8. Section 302D-13, Hawaii Revised Statutes, is
15 amended by amending subsections (c) and (d) to read as follows:

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

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



- 1 (2) The [~~timely transmittal~~] availability of the charter
2 application form and completion guidelines [~~to~~] on the
3 [~~governing board,~~] authorizer's website;
- 4 (3) The timely submission of a completed charter
5 application to the authorizer;
- 6 (4) The timely review of the charter application by the
7 authorizer for completeness, and notification by the
8 authorizer to the governing board that the charter
9 application is complete;
- 10 (5) Upon receipt of a completed charter application, the
11 [~~convening of the commission, if applicable, by the~~
12 ~~commission chairperson to begin~~] review and evaluation
13 of the charter application[~~;~~] by qualified persons;
- 14 (6) Following the [~~submission~~] review and evaluation of a
15 charter application, [~~issuance of a charter or~~]
16 approval or denial of the charter application by the
17 authorizer [~~or if submitted to the commission, by~~
18 ~~majority vote~~];
- 19 (7) A provision for a final date by which a decision of
20 whether to approve or deny a charter application must
21 be made[~~;~~] by the authorizer, upon receipt of a
22 complete charter application; and



1 (8) A provision that no start-up charter school may begin
2 operation before obtaining authorizer approval of its
3 charter application and charter contract[+] and
4 fulfilling pre-opening requirements that may be
5 imposed by the authorizer.

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

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

13 (2) A plan for identifying, recruiting, and retaining
14 highly qualified instructional faculty[+], as defined
15 by the department;

16 (3) A plan for identifying, recruiting, and selecting
17 students that is not exclusive, elitist, or
18 segregationist[+], and complies with this chapter;

19 (4) The curriculum and instructional framework to be used
20 to achieve student outcomes, including an assessment
21 plan;



- 1 (5) A plan for the assessment of student, administrative
2 support, and teaching personnel performance that:
 - 3 (A) Recognizes the interests of the general public;
 - 4 (B) Incorporates or exceeds the educational content
5 and performance standards developed by the
6 department for the public school system;
 - 7 (C) Includes a system of faculty and staff
8 accountability that holds faculty and staff
9 individually and collectively accountable for
10 their performance, and that is at least
11 equivalent to the average system of
12 accountability in public schools throughout the
13 State; and
 - 14 (D) Provides for program audits and annual financial
15 audits;
- 16 (6) A governance structure for the charter school that
17 incorporates a conflict of interest policy and a plan
18 for periodic training to carry out the duties of
19 governing board members;
- 20 (7) A description of the constitution of the governing
21 board, terms of governing board members, and the

- 1 process by which governing board members were
- 2 selected;
- 3 (8) A financial plan based on the most recent fiscal
- 4 year's per-pupil charter school allocation that
- 5 demonstrates the ability to meet the financial
- 6 obligations of one-time, start-up costs and ongoing
- 7 costs such as monthly payrolls, faculty recruitment,
- 8 professional development, and facilities costs; and
- 9 (9) A facilities plan."

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

12 "[+]§302D-14[+] **Conversion charter schools; establishment.**

13 (a) A conversion charter school may be established pursuant to
14 this section.

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



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

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

6 (2) The [~~timely transmittal~~] availability of the charter
7 application form and completion guidelines [~~to~~] on the
8 [~~governing board,~~] authorizer's website;

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

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



1 (B) The balance of stakeholders represented in the
2 vote and the [~~broad~~] extent of support received
3 in support of the conversion shall be a key
4 factor, along with the applicant's proposed
5 plans, in an authorizer's decision to award a
6 charter; and

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

12 (4) The timely review of the charter application by the
13 authorizer for completeness, and notification by the
14 authorizer to the governing board that the charter
15 application is complete;

16 (5) Upon receipt of a completed charter application, the
17 [~~convening of the commission, if applicable, by the~~
18 ~~commission chairperson to begin~~] review and evaluation
19 of the charter application[+] by qualified persons;

20 (6) Following the [~~submission~~] review and evaluation of a
21 charter application, [~~issuance of a charter~~] approval



1 or denial of the charter application by the authorizer
2 [~~or if submitted to the commission, by majority vote~~];

3 (7) A provision for a final date by which a decision of
4 whether to approve or deny a charter application must
5 be made by the authorizer, upon receipt of a complete
6 charter application; and

7 (8) A provision that no conversion charter school may
8 begin operation before obtaining authorizer approval
9 of its charter and charter contract[-] and fulfilling
10 pre-opening requirements that may be imposed by the
11 authorizer.

12 (d) A charter application to become a conversion charter
13 school shall meet the requirements of this subsection and
14 section 302D-25. The charter application shall include, at a
15 minimum, the following:

16 (1) A description of employee rights and management issues
17 and a framework for addressing those issues that
18 protects the rights of employees;

19 (2) A plan for identifying, recruiting, and retaining
20 highly qualified instructional faculty[+], as defined
21 by the department;



- 1 (3) A plan for identifying, recruiting, and selecting
2 students that is not exclusive, elitist, or
3 segregationist[+], and complies with this chapter;
- 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) A nonprofit organization may submit a letter of intent
- 17 to an authorizer to convert a department school to a conversion
- 18 charter school, operate and manage the school, establish a
- 19 governing board as its governing body, and develop a charter
- 20 application pursuant to subsection (d); provided that:
- 21 (1) As the governing body of the conversion charter
- 22 school, the governing board shall be the board of



1 directors of the nonprofit organization and shall not
2 be selected pursuant to section 302D-12. The
3 nonprofit organization may also appoint advisory
4 groups of community representatives for each school
5 managed by the nonprofit organization; provided that
6 these groups shall not have governing authority over
7 the school and shall serve only in an advisory
8 capacity to the nonprofit organization;

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

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



1 (B) The balance of stakeholders represented in the
2 vote and the ~~[broad]~~ extent of support received
3 in support of the conversion shall be a key
4 factor, along with the applicant's proposed
5 plans, in an authorizer's decision to award a
6 charter; and

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

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

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



1 contribution [~~of \$1 per pupil~~] toward the operation of
2 a conversion charter school [~~for every \$4 per pupil~~
3 ~~allocated by the department of budget and finance for~~
4 ~~the operation of the conversion charter school,~~
5 ~~provided further that in no event shall the nonprofit~~
6 ~~organization be required to contribute more than the~~
7 ~~total required contribution per pupil per year. As~~
8 ~~used in this paragraph, "total required contribution"~~
9 ~~means:~~

- 10 ~~(A) \$1,650 for school years 2012-2013 through 2015-~~
11 ~~2016, and~~
- 12 ~~(B) \$1,815 for school years 2016-2017 through 2020-~~
13 ~~2021]; and~~

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

21 (f) Any nonprofit organization that seeks to manage or
22 operate a conversion charter school as provided in subsection



1 (e) shall comply with the following at the time of charter
2 application:

3 (1) Have bylaws or policies that describe the manner in
4 which business is conducted and policies that relate
5 to the management of potential conflict of interest
6 situations;

7 (2) Have experience in the management and operation of
8 public or private schools or, to the extent necessary,
9 agree to obtain appropriate services from another
10 entity or entities possessing such experience;

11 (3) Comply with all applicable federal, state, and county
12 laws, including licensure or accreditation, as
13 applicable; and

14 (4) Comply with any other requirements prescribed by the
15 department to ensure adherence with applicable
16 federal, state, and county laws, and the purposes of
17 this chapter.

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



1 (h) In reviewing a charter application for a charter under
2 this 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 (i) In the event of a conflict between the provisions in
7 this section and other provisions in this chapter, this section
8 shall control.

9 ~~[(j) Any applicant whose charter application is denied by
10 the authorizer shall not be allowed to amend or resubmit the
11 charter application to the authorizer during a given cycle, as
12 defined by the authorizer, except as provided in subsection
13 (e) (5); provided that an applicant shall have the right to
14 appeal the authorizer's denial of its charter application
15 pursuant to section 302D-15.~~

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

21 SECTION 10. Section 302D-15, Hawaii Revised Statutes, is
22 amended to read as follows:



1 " ~~[+]~~§302D-15~~[+]~~ Appeals; charter applications,
2 ~~[reauthorizations]~~ renewals, or revocations. (a) The board
3 shall have the power to decide appeals of decisions by an
4 authorizer to deny the approval of a charter application, deny
5 ~~[reauthorization]~~ renewal of a charter ~~[school]~~ contract, or
6 revoke a charter school's charter~~[-]~~ contract. An appeal shall
7 be filed with the board within twenty-one calendar days of the
8 receipt of the notification of denial or revocation. Only a
9 party whose charter application has been denied, whose
10 ~~[reauthorization]~~ charter contract renewal has been denied, or
11 whose charter contract has been revoked may initiate an appeal
12 under this section for cause. The board shall review an appeal
13 and issue a final decision within sixty calendar days of the
14 filing of the appeal. ~~[The board may adopt applicable rules and~~
15 ~~procedures pursuant to chapter 91 for implementing the appeals~~
16 ~~process.]~~

17 (b) The board shall serve as the final arbitrator of
18 appeals authorized by subsection (a).

19 (c) A party shall not be entitled to a hearing before the
20 board under this section until it has exhausted all available
21 administrative remedies.



1 (d) The board shall adopt applicable rules and procedures
2 pursuant to chapter 91 for implementing this section."

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

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

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

- 13 (1) Student academic proficiency;
- 14 (2) Student academic growth;
- 15 (3) Achievement gaps in proficiency and growth between
16 major student subgroups;
- 17 (4) Attendance;
- 18 (5) [~~Recurrent enrollment from year to year;~~] Enrollment
19 variance;
- 20 (6) Postsecondary readiness, as applicable for high
21 schools;
- 22 (7) Financial performance and sustainability;



1 (8) Performance and stewardship, including compliance with
2 all applicable laws, rules, and terms of the charter
3 contract; and

4 (9) Organizational viability."

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

6 "(d) The performance framework shall require the
7 disaggregation of all student performance data by major student
8 subgroups, [~~including gender, race, poverty status, special~~
9 ~~education status, English as a second language status, and~~
10 ~~gifted and talented status.~~] as determined by the board."

11 SECTION 12. Section 302D-18, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending subsections (b) and (c) to read:

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



1 ~~rectified. The charter school shall have thirty days to respond~~
2 ~~to the performance report and submit any corrections or~~
3 ~~clarifications for the report].~~

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

6 (1) Submit any corrections or clarifications to the
7 performance report;

8 [+1+] (2) Present additional evidence, beyond the data
9 contained in the performance report, supporting its
10 case for charter renewal;

11 [+2+] (3) Describe improvements undertaken or planned for
12 the school; and

13 [+3+] (4) Detail the charter school's plans for the next
14 charter term."

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

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



1 3. By amending subsections (h), (i), and (j) to read:

2 "(h) An authorizer shall develop revocation and non-

3 renewal processes that:

4 (1) Provide the charter contract holders with a timely
5 notification of the prospect of revocation or non-
6 renewal and the reasons for such possible closure;

7 (2) Allow the charter contract holders a reasonable amount
8 of time in which to prepare a response;

9 (3) Provide the charter contract holders with an
10 opportunity to submit documents and give testimony
11 challenging the rationale for closure and supporting
12 the continuation of the school at an orderly
13 proceeding held for that purpose;

14 (4) Allow charter contract holders access to
15 representation by counsel, subject to section 28-8.3,
16 and to call witnesses on their behalf;

17 (5) Permit the recording of proceedings described in
18 paragraph (3); and

19 (6) After a reasonable period for deliberation, require a
20 final determination to be made and conveyed in writing
21 to the charter contract holders.



1 (i) If an authorizer revokes or does not renew a
2 charter[7] contract, the authorizer shall clearly state in
3 writing the reasons for the revocation or nonrenewal.

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

11 SECTION 13. Section 302D-21, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[+]§302D-21[+] **Annual board report.** No later than twenty
14 days 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 relevant
19 data compiled by the board, for the school year ending in the
20 preceding calendar year. The annual report shall include:

21 (1) A comparison of the performance of public charter
22 school students with the performance of [academically7



1 ethnically, geographically, and economically
2 ~~comparable groups]~~ comparable subgroups of students in
3 public schools governed by chapter 302A;

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

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

12 (4) Any concerns regarding equity and recommendations to
13 improve access to and distribution of federal funds to
14 public charter schools; and

15 (5) A discussion of all board policies adopted in the
16 previous year, including a detailed explanation as to
17 whether each policy is or is not applicable to charter
18 schools."

19 SECTION 14. Section 302D-28, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) Beginning with fiscal year 2012-2013, and each fiscal
22 year thereafter, the non-facility general fund per-pupil funding

1 request for charter school students shall be the same as the
2 general fund per-pupil amount to the department in the most
3 recently approved executive budget recommendation for the
4 department [~~and~~], shall be based upon reasonable projected
5 enrollment figures for all charter schools[-], and shall include
6 only those students who fall within the purview of section
7 302A-1132. The general fund per-pupil request for each regular
8 education and special education student shall:

9 (1) Include all general fund regular education cost
10 categories, including comprehensive school support
11 services, but excluding special education services,
12 adult education, and the after-school plus program;
13 provided that these services are provided and funded
14 by the department; and

15 (2) Exclude fringe benefit costs and debt service."

16 SECTION 15. Section 302D-31, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[~~§~~302D-31[~~§~~] **Sports.** The department shall provide
19 students at charter schools, including students enrolled at
20 charter schools whose curriculum incorporates virtual education,
21 with the same opportunity to participate in athletics as is
22 provided to students at other public schools. If a student at



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

11 SECTION 16. Section 302D-22, Hawaii Revised Statutes, is
 12 repealed.

13 [~~["§302D-22] Board as final arbitrator. (a) The board~~
 14 ~~shall serve as the final arbitrator of those appeals listed in~~
 15 ~~section 302D-15.~~

16 ~~(b) A party shall not be entitled to a hearing before the~~
 17 ~~board under this section until it has exhausted all available~~
 18 ~~administrative remedies.~~

19 ~~(c) The board shall adopt applicable rules and procedures~~
 20 ~~pursuant to chapter 91 for implementing this section."]~~

21 SECTION 17. Statutory material to be repealed is bracketed
 22 and stricken. New statutory material is underscored.



1 SECTION 18. This Act shall take effect upon its approval.

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INTRODUCED BY:

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Report Title:

Education; Charter Schools

Description:

Requires charter schools to complete an annual independent financial audit. Specifies enrollment requirements. Requires members of the state public charter school commission (commission) to disclose to the commission a list of all charter schools in which the member is an employee, governing board member, vendor, contractor, agent, or representative and disqualifies members from voting on or participating in the discussion of such matters. Authorizes the commission to hire employees without regard to chapters 76 and 89, HRS. Removes the requirement that a nonprofit organization that governs a conversion charter school make minimum annual contributions to the charter school. Makes other amendments to chapter 302D, HRS, for purposes of clarity and consistency

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

