
A BILL FOR AN ACT

RELATING TO PUBLIC CHARTER SCHOOL AUTHORIZERS.

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

1 SECTION 1. The nation's first charter school law was
2 enacted by Minnesota in 1991, allowing teachers and educators to
3 explore alternative, results-oriented, and student-centered
4 educational approaches without the restrictions of most state
5 and local laws and regulations. Hawaii's first alternative-
6 model schools, Waialae elementary school and Lanikai elementary
7 school, were established pursuant to Act 272, Session Laws of
8 Hawaii 1994, which created an opportunity for existing
9 department of education schools to convert to "student-centered"
10 schools. In 1999, the legislature passed Act 62, which allowed
11 new and existing department of education public schools to be
12 established as "new century" public charter schools, with the
13 goal of dramatically improving the State's educational standards
14 for the twenty-first century. The legislature decided in 1999
15 that as long as a public charter school complies with the
16 requirements that it be free for all attending students, that
17 its admissions policy be nondiscriminatory, and that it meet



1 statewide performance standards, it should be able to make
2 decisions relating to the provision of educational services free
3 from other statutory and regulatory requirements. Thus, Act 62,
4 Session Laws of Hawaii 1999, nurtured the ideal of more
5 autonomous and flexible decision-making at the school level and
6 sought to explore alternative frameworks regarding curriculum,
7 facilities management, instructional methods, and personnel
8 management.

9 Under Act 62, Session Laws of Hawaii 1999, new century
10 charter schools would be governed by individual school boards
11 accountable to the board of education. Charter schools that did
12 not meet student performance standards or were not fiscally
13 responsible had two years to improve, or face closure by a two-
14 thirds' majority vote of the board of education. Notably, all
15 funds generated by individual school boards, which were not from
16 supplementary grants, were deemed separate and apart from
17 allotted public funds and could be expended at the discretion of
18 the individual school boards. New century charter schools were
19 also exempted from all applicable state laws, except laws
20 regarding collective bargaining and discriminatory practices.



1 After several revisions, Hawaii's charter school laws were
2 last reorganized by Act 130, Session Laws of Hawaii 2012, an
3 omnibus bill based on recommendations developed by the task
4 force on charter school governance, accountability, and
5 authority. Among other provisions, Act 130, Session Laws of
6 Hawaii 2012, replaced the charter school review panel with the
7 state public charter school commission as the authorizer of
8 public charter schools. The state public charter school
9 commission is responsible for reviewing charter school
10 applications and negotiating and approving performance-based
11 charter contracts that ensure accountability in academic,
12 financial, and organizational outcomes for each school.

13 Act 130, Session Laws of Hawaii 2012, also expressly
14 provided for the establishment of additional authorizers, a
15 first in Hawaii's charter school history. This provision was
16 consistent with specific recommendations made by the National
17 Association of Charter School Authorizers, which had warned
18 against relying too long upon only a single charter school
19 authorizer.

20 According to the National Association of Charter School
21 Authorizers, a single authorizer may have a tendency to create



1 unnecessarily bureaucratic and overly burdensome regulations
2 over time, particularly as more charter schools are established
3 and overseen by the authorizer. Such regulations and
4 requirements may eventually result in the loss of charter
5 schools' intended freedom to be innovative in their development
6 of class curricula, instructional practices, and school
7 administrative approaches. Additional authorizers would provide
8 a check against the development of overly burdensome and
9 bureaucratic requirements by giving charter schools more
10 individualized oversight as well as the option to seek charter
11 approval or renewal from alternative regulatory entities.
12 Accordingly, the National Association of Charter School
13 Authorizers specifically recommended that an additional
14 authorizer for charter schools in Hawaii be established by July
15 2013.

16 Notwithstanding the National Association of Charter School
17 Authorizers' specific recommendation for Hawaii, the state
18 public charter school commission remains the State's sole public
19 charter school authorizer. Accordingly, the commission must now
20 oversee thirty-four public charter schools--over twice the
21 maximum number generally recommended by the National Association



1 of Charter School Authorizers--as well as review and decide upon
2 all new charter school applications. Despite the statutory
3 rulemaking authority granted by Act 130, Session Laws of Hawaii
4 2012, the board of education has still not begun the
5 comprehensive rulemaking process necessary for the creation of
6 an additional charter school authorizer. Given that four years
7 have already passed without any action by the board of education
8 in this regard, it seems that legislative action is necessary to
9 facilitate the establishment of additional charter school
10 authorizers.

11 The purpose of this Act is to require the board of
12 education:

- 13 (1) By December 1, 2016, to establish the annual
14 application and approval process and the policies,
15 criteria, or guidelines for evaluating applications
16 for chartering authority, via board action at a
17 publicly noticed hearing held in accordance with
18 chapter 92, Hawaii Revised Statutes, and in lieu of
19 the rulemaking process under chapter 91, Hawaii
20 Revised Statutes; and



1 (2) To submit to the legislature a report on the status of
2 its policies, criteria, or guidelines for evaluating
3 chartering authority applications no later than twenty
4 days prior to the convening of the regular session of
5 2017.

6 SECTION 2. Section 302D-4, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "§302D-4 Chartering authority application for eligible
9 entities. (a) The commission created under section 302D-3 may
10 authorize public charter schools anywhere in the State.

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

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

19 (d) Governing boards of non-profit or charitable
20 organizations, which are exempt from federal taxes under section
21 501(c)(3) or 501(c)(6) of the Internal Revenue Code, may apply



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

7 (e) ~~[The]~~ By December 1, 2016, the board shall establish
8 ~~[, through administrative rules,]~~ the annual application and
9 approval process for all entities eligible to apply for
10 chartering authority pursuant to this section ~~[, provided that~~
11 ~~the board shall not approve any application for chartering~~
12 ~~authority until July 1, 2014, or until the board adopts rules,~~
13 ~~whichever is later.],~~ and the policies, criteria, or guidelines
14 for evaluating applications for chartering authority. By June
15 30 of each year, the board shall make available information and
16 guidelines for all eligible entities concerning the opportunity
17 to apply for chartering authority under this chapter.

18 Notwithstanding the public notice and hearing requirements
19 of chapter 91, the annual application and approval process, and
20 the policies, criteria, or guidelines for evaluating
21 applications for chartering authority, shall be established and



1 may be amended from time to time by a majority vote of the board
2 at a meeting held in accordance with chapter 92. The
3 application process shall require each interested eligible
4 entity to submit an application that clearly explains or
5 presents the following elements:

- 6 (1) Written notification of intent to serve as an
7 authorizer in accordance with this chapter;
- 8 (2) The applicant entity's strategic vision for
9 chartering;
- 10 (3) A plan to support the vision presented, including
11 explanation and evidence of the applicant entity's
12 budget and personnel capacity and commitment to
13 execute the responsibilities of ~~[quality]~~ high-quality
14 charter authorizing, in accordance with this chapter;
- 15 (4) A draft or preliminary outline of the request for
16 proposals that the applicant entity, if approved as an
17 authorizer, would issue to solicit public charter
18 school applicants;
- 19 (5) A draft of the performance framework that the
20 applicant entity, if approved as an authorizer, would
21 use to guide the establishment of a charter contract



1 and for ongoing oversight and evaluation of public
2 charter schools, consistent with the requirements of
3 this chapter;

4 (6) A draft of the applicant entity's renewal, revocation,
5 and nonrenewal processes, consistent with section
6 302D-18;

7 (7) A statement of assurance that the applicant entity
8 seeks to serve as an authorizer in fulfillment of the
9 expectations, spirit, and intent of this chapter, and
10 that if approved as an authorizer, the entity will
11 fully participate in any authorizer training provided
12 or required by the State; and

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

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



1 (g) In the event that an application is denied, the board
2 shall notify the applicant in writing, via registered or
3 certified mail with return receipt requested, stating the reason
4 or reasons therefor, with specific references to the adopted
5 policies, criteria, or guidelines.

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

16 [~~h~~] (i) This section shall not apply to the commission."

17 SECTION 3. No later than twenty days prior to the
18 convening of the regular session of 2017, the board of education
19 shall prepare and submit a report to the legislature on the
20 status of the policies, criteria, or guidelines for evaluating
21 applications for chartering authority.



H.B. NO. 2067

1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

4

INTRODUCED BY: *Hyakushima*

JAN 22 2016



H.B. NO. 2067

Report Title:

Public Charter School Authorizers

Description:

Requires the Board of Education to establish, by December 1, 2016, policies, criteria, or guidelines for evaluating applications for chartering authority to allow additional public charter school authorizers in Hawaii.

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

