Task Force on Charter School Governance, Accountability, and Authority

Report to the Legislature
Pursuant to Act 130,
Session Laws of Hawaii 2011

TABLE OF CONTENTS

I. BACKGROUND

The Charter School Governance, Accountability, and Authority Task Force ("Task Force") was created pursuant to Section 7 of Act 130, Session Laws of Hawaii 2011, (S.B. 1174, S.D. 2, H.D. 1, C.D. 1)("Act 130") in response to questions and concerns raised by policy makers and advocates alike about the integrity of Hawaii's charter school governance structure and the overall strength of Hawaii's laws in establishing clear lines of authority that ensured accountability of the charter school system. A copy of Act 130 is attached as Appendix A.

Specifically, the goal of the Task Force was to provide clarity to the relationships, responsibilities, and lines of accountability and authority among stakeholders of Hawaii's charter school system, including the Board of Education, Department of Education, Charter School Administrative Office, Charter School Review Panel, and local school boards.

The Task Force was mandated to meet the following objectives:

(1) Develop legislation or administrative rules that clearly and definitively designate the governance structure and authority between and among key charter school organizations and the Department of Education, the Board of Education, and the Office of the Governor;

(2) Identify how the governance structure connects and relates to the state education agency and local education agency;

(3) Identify oversight and monitoring responsibilities of the Charter School Review Panel, the Charter School Administrative Office, and local school boards and develop a process for enforcement; and

(4) Discuss funding-related issues, including but not limited to appropriate funding levels for the Charter School Administrative Office.

II. PROCESS AND PROCEDURE

The Task Force consisted of the following members:[1]

Senator Jill Tokuda, Senate;
Representative Della Au Belatti, House of Representatives;
Don Horner, Board of Education;
Tammi Chun, Office of the Governor;
Robert Campbell, Department of Education (Superintendent of Education's Designee);
Roger McKeague, Charter School Administrative Office;
Ruth Tschumy, Charter School Review Panel;
Lisa Okinaga, Kamehameha Schools;
Megan McCorriston, Ho'okako'o Corporation;
Gene Zarro, Hawaii Charter Schools Network; and
Steve Sullivan, Hawaii Charter Schools Network.

In order to address the specific objectives of Act 130, each meeting of the Task Force was dedicated to one of the objectives identified above. At each Task Force meeting the goal was to reach a general consensus on specific actions related to the specific objective discussed.

Members were split up into smaller working groups to discuss and investigate specific issues prior to the convening of the next regular Task Force meeting.

In discussing the specific objectives, the working groups also identified:

(1) What is working and should be kept?

(2) What should be considered for repeal or elimination?

(3) What should be changed?

(4) What additional work must be done in this area?

Working group members were often given homework assignments and asked to report back to the working group or Task Force. In

[1] Act 130 provided that the Director of the State Ethics Commission ("Ethics Commission"), or the Director's designee, would serve on the Task Force. However, at the July 20, 2011 Task Force meeting, Senator Tokuda provided members of the Task Force with copies of a July 18, 2011, letter from Leslie Kondo, Executive Director Ethics Commission. In his letter, Mr. Kondo expressed that he would not be participating and that no one would be representing the Ethics Commission on the Task Force. As a result, the number of members on the Task Force was reduced from 12 to 11 members.

addition, the working groups allowed third parties with expertise or knowledge in an objective area to participate in working group discussions. Questions and comments were taken from audience members and sometimes audience members were also asked to do homework and report back to the working group.

No decision making was conducted by the working groups and the working groups reported back to the larger Task Force for further discussion on the objective and issues discussed.

The Task Force concluded each meeting with a discussion of the next objective and pertinent issues, helping to provide the working group with some clarity and direction as to how to formulate recommendations to the Task Force.

All other issues related to the identified objectives and requests by a member to revisit a previously discussed objective were placed in "The Bin" for later discussion. A list of "The Bin" items is attached as Appendix B.

The Task Force also looked at various sections of a charter school model law put forth by the National Alliance for Public Charter Schools ("Model Law") and used the Model Law as a guide. A summary of the Model Law is attached as Appendix C.

In addition, the Task Force was fortunate to have the assistance and input of the National Association of Charter School Authorizers ("NACSA") and the National Governors Association ("NGA") Center for Best Practices. NACSA provided detailed recommendations to the Task Force at its September 21, 2011, meeting. Stephanie Shipton of NGA also attended several of the Task Force meetings to provide guidance. Regular communication with Joe Nathan from Macalester College's Center for School Change was also facilitated by NGA. A copy of NACSA's Recommendations to the Task Force dated September 21, 2011, ("NACSA Report") and NACSA's power point presentation to the Task Force are attached as Appendices D and E, respectively.

The laws and experiences of other states and jurisdictions were also examined in determining what recommendations the Task Force would make to the Legislature.

The Task Force met seven times: July 20, 2011; August 10, 2011; August 31, 2011; September 21, 2011; October 12, 2011; November 2, 2011; and December 7, 2011; with working group meetings held, on average, once a week.

Tasked with broad objectives, the Task Force, made up of charter school advocates and education stakeholders, established an open and transparent process. Members of the public who attended the Task Force meetings were encouraged to provide comments and engage in the discussion.

In addition, all of the minutes from the Task Force meetings, as well as notes from all of the working group meetings, are included in the Appendices to this report. They are also posted on the Task Force's website available at http://www.capitol.hawaii.gov/specialcommittee.aspx?comm=csgtf (last visited on December 12, 2011).

Lastly, all of the Task Force meetings were covered by Capitol TV and Capitol TV's recordings shall serve as the official record of the Task Force. This also allowed individuals to watch the Task Force meetings via the Senate's website even if they were unable to physically attend the meetings, and archived webcasts ensured on-demand access to the proceedings.

III. DISCUSSION AND RECOMMENDATIONS[2]

To meet the objectives of Act 130, the Task Force was ultimately guided by a statement made by NACSA: "Autonomy Plus Accountability Equals Increased Student Outcomes." As noted in NACSA's report, while Hawaii has historically been very strong on giving autonomy to charter schools, it is severely lacking in the area of accountability, resulting in serious questions about student outcomes.

As such, in order to improve student outcomes, the Task Force recommendations are based on the following overarching themes for the charter school system:

(1) High expectations;

(2) Increased flexibility and autonomy; and

(3) Meaningful accountability.

A. High Expectations

1. Performance-based Charter Contracts

[2] The Final Recommendations for Charter School Task Force dated December 7, 2011, ("Final Recommendations") are attached as Appendix M.

The Task Force discussed the importance of annual performance targets to keep charter schools on track and to keep the Charter School Review Panel ("CSRP") up to date on the status of the charter schools in achieving high student performance and remaining financially viable organizations.

A working group examined the Model Law language relating to performance-based charter contracts. Section 7 of the Model Law requires a charter contract between the authorizer and a charter school that is separate from the charter application. The charter contract is based on a performance framework that requires charter schools to meet annual performance targets, including student academic proficiency, academic growth, and financial performance and sustainability. It also requires charter schools and charter school authorizers to establish indicators, measures, and metrics that focus on such areas as student achievement and the organizational viability of the charter school. See Model Law Summary attached as Appendix C. See also, Minutes of the Task Force dated August 10, 2011, attached Appendix G.

In moving toward performance-based charter contracts, the Task Force identified the need to determine how current charter reauthorizations and new charter authorizations should be handled in light of the potential statutory and structural changes to the charter school system. Currently there are five schools that are set to start the reauthorization process and eight letters of intent have been submitted to the CSRP seeking new charters. The Task Force discussed the concern that new charter schools or schools currently seeking reauthorization would be receiving a "pass" on the new statutory requirement for performance-based charter contracts. See Minutes of the Task Force dated November 2, 2011, attached as Appendix K.

To address this problem, NACSA recommended a one-year moratorium on reauthorizations to allow the new charter school governing structure, including performance-based charter contracts, to be implemented. Id.

In addition, the CSRP has already begun to take steps toward developing a model performance-based charter contract in consultation with NACSA, and has adjusted its reauthorization schedule to reflect the changes recommended by the Task Force. Id.

Recommendation #1:

The Task Force recommends the replacement of the Detailed Implementation Plan with a separate charter application and a performance-based charter contract that requires charter schools to meet annual performance targets. Charter schools will be required to enter into a performance-based charter contract that clearly sets forth academic and operational performance indicators, measures, and metrics that will guide the authorizer's evaluation of the charter school.

The statutory language incorporating this recommendation is included in the proposed draft Charter School Omnibus Bill ("Omnibus Bill") attached hereto as Appendix O.

Recommendation #2:

The Task Force recommends that charter reauthorizations be pushed back for a year or until such time performance-based contracts are ready for implementation.

The Task Force also recommends that the CSRP provide notice to new charter applicants that any Detailed Implementation Plan submitted to the CSRP for the current application cycle shall be considered a charter application and that if the applicant is authorized, a performance-based charter contract between the applicant's governing board and the authorizer shall be required.

2. Form and Functioning of Governing Entities within the Charter School System

a. Charter School Review Panel

The Task Force examined the Model Law for ways to strengthen the CSRP, Hawaii's sole charter school authorizer. Using the Model Law as guidance, the Task Force discussed changing the CSRP to the State Public Charter School Commission ("Commission"). The Task Force also explored making substantive changes to the role and membership of the Commission. The Task Force emphasized the need for membership to be contingent on specific qualifications rather than based on a member's constituency. These changes will help to strengthen the authorizing capabilities of the Commission. See Minutes of the Task Force dated August 10, 2011, attached as Appendix G; Minutes of the Task Force dated November 2, 2011, attached as Appendix K.

Recommendation #3:

The Task Force recommends changing the name of the Charter School Review Panel to the State Public Charter School Commission to better align with Model Law provisions. In addition, the Task Force recommends that the composition and appointment process for the State Public Charter School Commission model that of the Board of Education (pursuant to Act 5, Session Laws of Hawaii 2011) with an emphasis placed on charter school knowledge and understanding. This will ensure that the composition of the Commission is qualification-based rather than constituency-based. Not intended to exclude participation by various stakeholder groups, the intent was to ensure that the flexibility existed to appoint experienced members with the skill sets required for strong authorizing. To promote continuity among members, the Task Force also recommends staggering the terms for State Public Charter School Commission members.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

b. Local School Boards

The Task Force also examined making changes to local school boards. The Task Force recognized the importance of strong local school boards. NGA advised the Task Force that the main reason charter schools close is because they are not viable organizations with a strong governing board that understands how to run a nonprofit organization.

NACSA provided the Task Force with several recommendations on the composition, skills, and training of local school boards. These recommendations included focusing on the skills, expertise and time that local school members could bring to the table, the diversity of perspectives and opinions of members, and the level of objectivity provided by members. NACSA also recommended that charter school local school boards should always follow the best practices of non-profit governance. NACSA's complete recommendation regarding local school boards can be found in the NACSA Report attached as Appendix E.

The Task Force discussed possible changes to the configuration and appointment process of members of local school boards. The Task Force examined changing the name of the local

school boards to governing boards as suggested by the Model Law. The Task Force also discussed changing the composition of the local school boards so they would no longer be constituency-based, but rather skills-based, thus helping to ensure the school's overall viability. Other areas of Task Force discussion included:

(1) Whether to prohibit any employee or relative of an employee from serving as chair of a governing board;

(2) Requiring that no more than one-third of a governing board shall be employees of the charter school;

(3) Whether, in the long term, the governing boards should consider, based on the practice of good non-profit organization, that employees of charter schools only be allowed to serve in an ex officio capacity; and

(4) The importance of governing boards being reflective of the school community and the community at-large.

See Minutes of the Task Force dated November 2, 2011, attached as Appendix K; Final Recommendations attached as Appendix M.

Recommendation #4:

The Task Force recommends the following:

(1) Changing the name of local school boards to governing boards to better describe their role in the charter school system;

(2) Changing the composition and appointment process of governing boards to reflect a qualification-based membership rather than a constituency-based membership;

(3) Requiring governing boards to have no more than thirteen members;

(4) Requiring that no more than thirty percent of the members be employees of a charter school or relatives of an employee;

(5) Prohibiting an employee or relative of an employee from serving as the chair of a governing board, unless otherwise permitted by the authorizer, to ensure an

independent chair who is free to make recommendations in the best interest of the organization; and

(6) Requiring that in selecting members, consideration is given to those individuals who demonstrate an understanding of best practices of non-profit governance and who possess strong financial management, academic oversight, human resources, and fundraising experience.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

c. Department of Education

The Task Force recognizes that the Department of Education is currently undergoing its own internal reorganization. It is the Task Force's hope that as the Department of Education goes through its reorganization process it will take into account the Task Force's recommended changes to the charter school system.

Recommendation #5:

The Task Force recommends that as part of the transition period necessary to implement the Task Force's recommendations, the Department of Education conduct an inventory of the Department's Full Time Employees ("FTE") who deal with charter schools in any way. The Task Force recommends that the Department work with the charter school community through the Implementation and Transition Coordinator[3] to determine whether some FTE positions and their job duties should be repurposed or redirected to better align these positions with the charter school system under the recommended changes of the Task Force.

B. Increased Flexibility and Autonomy

1. Removal of Caps on New Charter Schools

In light of the Task Force's recommendation to require performance-based charter contracts and to strengthen the application process, the Task Force discussed whether or not to remove the cap on the number of new charter schools the CSRP may authorize. Currently, there are typically more charter slots than there are applicants. The Task Force also believes that

[3] See Recommendation #16.

its recommendations to the Legislature create a stronger charter system that includes a strong authorizer, requires stronger charter school applicants, and improves charter school governance overall. These changes make the cap on the number of charter schools unnecessary because the new system and process will create a natural limit on new authorizations, and allow only high quality charters to be approved.

Recommendation #6:

The Task Force recommends removing the statutory caps on the number of charter schools that may be authorized.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

2. Multiple Authorizers

The Task Force examined the possibility of establishing multiple charter school authorizers. Currently, the State has a single authorizer, the CSRP, which consists of volunteer members and does not have any support staff.

At the Task Force's meeting on September 21, 2011, NACSA recommended that the Legislature not establish an additional charter school authorizer at this time. NACSA recommended that Hawaii fix its current authorizing arrangement first and establish an additional authorizer only after the current system is functioning well. See NACSA Report attached as Appendix D. NACSA recommended a proposed timeline, including benchmarks, for establishing a second authorizer in the State. Id.

The Task Force discussed the importance of moving forward to set up a statutory framework for multiple authorizers. The Task Force concluded that NACSA's concerns would be met by requiring the Board of Education to create the necessary administrative rules and procedures to ensure highly qualified authorizers. The Commission would serve as the statewide authorizer and the Board of Education would serve as the authorizer oversight body responsible for granting authorizer status and holding authorizers accountable. Any eligible entity seeking to become an authorizer would need to prove that it has the resources and personnel capacity to carry out all authorizer responsibilities and functions. See Minutes of the Task Force dated August 10, 2011, attached as Appendix G; Minutes of the Task Force dated November 2, 2011, attached as Appendix K.

The Task Force also discussed and analyzed sections 5 and 7 of the Model Law relating to multiple authorizers. See Summary of the Model Law attached as Appendix B; Minutes of the Task Force dated August 10, 2011, attached as Appendix G; Minutes of the Task Force dated November 2, 2011, attached as Appendix K.

Recommendation #7:

The Task Force recommends the adoption of portions of sections 5 and 7 of the Model Law to:

- Grant the authority for multiple authorizers;
- Establish the process by which the Board of Education may grant authorizing authority to an eligible entity;
- Establish the process for charter transfers between authorizers; and
- Task the Board of Education with authorizer oversight responsibilities.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

3. Governance Structure: Charter School Connection and Relationship to the State Education Agency and Local Education Agency; Role of the Charter School Administrative Office

Hawaii's current educational system is unique from other jurisdictions in the United States because it is the only state in the nation with a single statewide school district controlled by the Board of Education. The Department of Education serves as the Local Education Agency ("LEA") and State Education Agency ("SEA") and is accountable to the Board of Education, as well as to the federal Department of Education.

The working group assigned to discuss charter school governance structure identified the following areas of concern for charter schools under the current single education agency set up:

(1) The need for charter school transparency and access to discretionary funds when it comes to federal monies;

(2) The need for an elevated status for charter schools when it comes to federal grant applications and proposals (e.g., consultation between the Department of Education and charter schools for grant applications and in the development of federal accountability work plans); and

(3) Access for charter schools to federal grant opportunities that are otherwise prohibited because Hawaii's educational system has only one local education agency.

The working group discussed at length the possibility of establishing a separate LEA for charter schools in order to address these areas of concern. See Minutes of the Task Force dated September 21, 2011, attached as Appendix I. However, the Task Force learned that if Hawaii established multiple LEAs, it would lose approximately $20 to $23 million in federal military impact aid. Id. As such, the working group worked on a "Plan B" as an alternative to establishing a separate LEA for charter schools. Id.

Plan B would establish a Charter School Liaison and Support Office ("CSLO") within the Office of the Superintendent. The CSLO would replace the current CSAO and be responsible for the overall administration of statewide educational policy and charter school compliance with state and federal laws. The Director of the CSLO would serve as the charter school liaison within the Department of Education for the purpose of coordinating charter school involvement and/or required participation in any SEA or LEA applications and proposals for federal grant aids. Id.; see also, Minutes of the Task Force dated October 12, 2011, attached as Appendix J.

The working group also explored the option of establishing a Special Education Local Plan Area ("SELPA") or a Joint Powers Authority ("JPA") as an alternative to a Charter School LEA; however after investigating the idea further with NGA and others, the determination was made that the structure of a SELPA or JPA would not give charter schools the kind of authority or transparency they were looking to achieve. Further investigation and research into the concept of SELPA and JPA would be necessary for any future consideration. See Minutes of the Task Force dated October 12, 2011, attached as Appendix J.

The final option explored by the working group was what the Task Force deemed the "Nuclear Model." Under the Nuclear Model, a separate support office would not be established. Instead, this scenario would require the direct interaction of the Department of Education and the authorizer over access to and distribution of federal funds. It would also require direct reporting from the authorizer to the Department in meeting federal funding reporting requirements. See Nuclear Model organizational chart attached as Appendix L.

Critical to the success of the Commission and the charter schools they authorize is having appropriate staffing levels and key personnel in place. As such, the Task Force discussed redistributing the responsibilities of the CSAO to the Commission's staff. See NACSA Recommendations attached as Appendix D; NACSA's Power Point presentation to the Task Force attached as Appendix E. In looking at the recommendations of NACSA and best practices in other jurisdictions, it was determined that the Commission should have a staff consisting of an Executive Director, who would be responsible for implementing charter school laws and policies, as well as several specialists such as an Application Specialist, Finance Specialist, and Compliance Specialist. Id.

The Nuclear Model would give the Department of Education assurances for timely and accurate reporting from the charter schools as required by the federal government while providing the charter schools with a point of contact for consultation regarding federal funds. In addition, this structure clearly articulates the roles of the governing board and authorizer as they relate to the charter school, while maintaining important and appropriate connections to the Department of Education and Board of Education. Redistribution of the CSAO's duties to designated authorizer staff and the governing boards also provides charter schools with increased control and autonomy.[4] In addition, this option gives the charter schools the flexibility to contract with third parties for certain services.

Recommendation #8:

In order to implement the Nuclear Model discussed above, the Task Force recommends the adoption of statutory language requiring the authorizer to:

[4] An organizational chart of the charter school system as envisioned by recommendations 7, 8, and 9, is attached as Appendix L.

- Serve as the point of contact between the Department of Education and a public charter school it authorizes and shall be responsible for the administration of all applicable state and federal laws;

- Ensure compliance of a public school charter it authorizes with all applicable state and federal laws, including reporting requirements, as provided in the charter school's performance contract;

- Receive applicable federal funds from the Department of Education and distribute the federal funds to the public charter school it authorizes; and

- Receive per pupil funding from the Department of Budget and Finance and distribute the funding to the public charter school it authorizes.

Based on recommendations received from both NGA and NACSA, the Task Force strongly recommends that the authorizer not provide technical support[5] to any charter school it authorizes.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

Recommendation #9:

The Task Force recommends that the Commission, as the statewide authorizer, have adequate staff to assist it in carrying out the requirements of Recommendation #7. Specifically, the Task Force recommends that the Commission staff consist of an Executive Director, to be hired by the Commission, as well as an Application Specialist, Accountability Specialist, Academic Performance Specialist, Compliance Specialist, Finance Specialist, Administration Specialist, and four additional administrative staff.

The specific recommended duties and functions of the Commission staff can be found in the Final Recommendations attached as Appendix M.

Given the increased responsibilities the redistribution of duties will place on charter schools and their governing boards, the Task Force further recommends that these FTE positions be a

[5] Based on the recommendation of NGA, technical assistance will not be defined at this time.

line item in the budget rather than funded using a two percent lump sum of the annual charter school general fund allocation.

Recommendation #10:

The Task Force recommends that the duties and responsibilities of the CSAO be redistributed among other charter school stakeholders including the authorizer, authorizer staff, governing boards, Board of Education, Department of Education, and third parties.

Based on what is commonly done in other jurisdictions and national best practices, NGA assisted the Task Force in delineating which of CSAO's duties will be transferred to another entity. A complete breakdown of the CSAO duties to be transferred to other charter school entities is attached as Appendix N.

The Task Force recognizes that the closure of the CSAO and the redistribution of its duties to the Commission staff and governing boards will take time and recommends allowing the CSAO a twelve-month period to transition and to ensure there are no gaps in services at the charter school level.[6]

C. Meaningful Accountability

1. Role and Responsibility of the Authorizer

The Task Force discussed the role of the authorizer in ensuring the accountability and viability of charter schools. The Task Force reviewed sections 5 and 7 of the Model Law to clearly determine the role and responsibility of the authorizer, while ensuring that both the authorizer and governing boards are engaged in the process. See Minutes of the Task Force dated August 10, 2011, attached hereto as Appendix G.

Recommendation #11:

The Task Force recommends the adoption of relevant portions of the Model Law relating to the authorizer's powers, duties, and liabilities; principles and standards for charter authorizing; authorizer reporting to the Board of Education and the Legislature; conflicts of interest; exclusivity of authorizing functions and rights; authorizer services; authorizer oversight over charter schools and corrective

[6] See Recommendation # 16.

actions; and the authorizer's responsibilities as to school closures and dissolution, as well as charter renewals, revocations, and nonrenewals.

To address charter school concerns about access to and distribution of federal funds, the authorizer's annual report to the Board of Education and the Legislature should include a breakdown of all federal funds distributed to the charter school under the authorizer's jurisdiction. The report should also contain any recommendations or concerns from the charter schools on improving access to and distribution of federal funds.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

2. Strengthening the Charter Application Process

The Task Force also discussed ways to strengthen the charter application process to ensure that only strong and viable charter applicants are granted charters.

Existing law requires the CSRP to review a charter application and make the applicant aware of any deficiencies in its application. Applicants are then allowed to submit an amended application based on CSRP's recommendations. NACSA recommended that applicants not be allowed to amend their applications once submitted, but rather be required to submit strong applications upfront. See Final Recommendations attached as Appendix M.

Recommendation #12:

The Task Force recommends that applicants for start-up charter schools and conversion charter schools be allowed to submit their application only once during an application cycle. Authorizers will not be required to give the applicant notice of any substantial deficiencies and applicants will not be given the opportunity to submit amended applications. Charter school applicants will still have the right to appeal the denial of a charter application to the Board of Education.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

3. Reporting Requirements

As part of increasing the accountability of all stakeholders in the charter school system, the Task Force explored instituting annual reporting requirements for the Board of Education. The Task Force looked to the Model Law for specific reporting requirements. These reports will help identify the successes of charter schools and the areas of concern. These reports will have the added benefit of bringing the topic of charter schools to the forefront of the educational discussion each year. See Final Recommendations attached as Appendix M.

In addition, the Task Force discussed the need for charter schools to have a uniform system for reporting specific information to the Department of Education for the purpose of meeting federal reporting requirements. While not mandating a specific operating system and still allowing flexibility in this area, this will help to ensure that the Department of Education receives a common output of data from all charter schools to assist in making timely and accurate reports to the federal government. See Minutes of the Task Force dated November 2, 2011, attached as Appendix K.

Recommendation #13:

The Task Force recommends that the Board of Education submit annual reports to the Governor, Legislature, and public on the performance of all charter schools, as well as the compliance of charter schools with all applicable state and federal laws. In addition, reports should identify the successes charter schools are experiencing so that they can be replicated in other charter schools. The reports should also identify the challenges facing the charter schools and areas needing improvement.

In light of charter schools concerns over access to and distribution of federal funds, the Task Force recommends that the Board of Education's annual report include a breakdown of all federal funds received and distributed to the charter schools. The report should also contain any recommendations or concerns from charter schools on improving access to and distribution of federal funds.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

Recommendation #14:

The Task Force recommends statutorily requiring the Board of Education to establish a uniform data reporting system to include requirements for reporting fiscal, personnel, and student data, by means of electronic transfer from charter schools to the Department of Education. Beginning with the 2012-2013 school year, all charter schools will be required to comply with the requirements of the uniform education reporting system.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

The Task Force would also request the Hawaii Charter School Network to help facilitate communications between appropriate individuals from the charter schools, the Board of Education, and the Department of Education to address this issue and identify what changes need to take place in practice and from a policy-making perspective.

4. Board of Education as Final Arbitrator

As part of the overall discussion of meaningful accountability, the Task Force discussed how concerns and disputes between charter schools, authorizers, and the Department of Education should be handled if they were unable to be resolved at the appropriate departmental level. The Task Force identified the Board of Education as the final arbitrator on charter school issues. See Minutes of the Task Force dated October 12, 2011, attached as Appendix J.

Recommendation #15:

The Task Force recommends that the Board of Education serve as the final arbitrator of any dispute between a charter school, governing board, authorizer, and the Department of Education; provided that no party shall be entitled to a hearing before the Board until it has exhausted all available administrative remedies. The Task Force further recommends that the Board of Education adopt appropriate rules and procedures to govern the hearing process.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

D. Implementation and Transition

The Task Force acknowledged that its recommendations are a significant departure from the current charter school system and a comprehensive and meaningful transition is critical to the success of a new charter school structure and system.

The Task Force discussed at length options and considerations for implementation and transition, including hiring a Transition Coordinator to assist with implementing the recommendations of the Task Force.

See Minutes of the Task Force dated November 2, 2011, attached as Appendix K; Final Recommendations attached as Appendix M.

Recommendation #16:

The Task Force recommends that the Board of Education, with guidance from NGA, draft a scope of work to contract for a Charter School Implementation and Transition Coordinator ("Transition Coordinator"), whose central responsibility shall be to facilitate the implementation of the recommendations of the Task Force. The Board of Education shall be responsible for awarding and overseeing the contract.

The Task Force further recommends that the Transition Coordinator be contracted for a period of twelve months and the contract be funded through the charter schools account established by section 302B-12(i), Hawaii Revised Statutes.

The Task Force also felt strongly that there should be an overlap in key positions as the transition occurs between the CSAO and Commission staff, but that charter schools should not be assessed more than the current two percent CSAO funding requirement during this period.

The Task Force recommends that the Transition Coordinator examine the funding of the CSAO and the authorizer staff, as well as any overlap in CSAO and authorizer staff duties during

the transition period.[7] In addition, it will be important that the Transition Coordinator work with CSRP and NACSA in creating sample performance-based charter contracts to assist authorizer staff, charter schools, and their governing boards.

The Task Force also recommends that as part of the implementation and transition efforts, the Transition Coordinator assist the Department of Education in identifying all FTEs within the Department of Education who work with charter schools and make recommendations for repurposing or redirecting staffing based upon the statutory and structural changes being made to the charter school system.

The Task Force's recommendation for the minimum skill set and additional scope of work requirements for the Transition Coordinator is included in the Final Recommendations attached as Appendix M.

The statutory language incorporating this recommendation is included in the proposed draft Omnibus Bill attached hereto as Appendix O.

IV. ITEMS FOR CONTINUED DISCUSSION AND NEXT STEPS

A. Items for Continued Discussion

The Task Force recognizes the enormity of challenges facing Hawaii's charter school system. Due to the short time line available to the Task Force, and the complexity of the issues discussed, the Task Force was unable to address certain issues in great detail. The Task Force believes the following issues deserve continued discussion among charter school stakeholders:

(1) Special education issues;

(2) Funding, including facilities and transportation;[8] and

(3) Collective bargaining.[9]

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[7] The Task Force recognizes the concern of charter schools that they may be paying twice for comparable services during the transition and that currently the CSAO provides many services that will become the responsibility of the individual governing boards after the transition.

[8] Funding issues require all stakeholders to participate in discussions and decision making. The Task Force believes it is important for the Chair of the Senate Committee on Ways and Means, Chair of the House Committee on Finance, Board of Education, Department of Education, a representative from the Department of Budget and Finance, and members of the charter school community to conduct separate meetings to address funding issues. See Minutes of the Task Force dated November 2, 2011, attached as Appendix K.

B. Next Steps

In order to implement the recommendations included in this report, the Task Force recommends the introduction of two separate bills. The first bill is a Charter School Omnibus bill that incorporates all of the statutory recommendations made by the Task Force, as well as other housekeeping amendments, including several definitional amendments.[10]

The second bill is focused on an implementation and transition plan to make sure that time and resources are allocated properly to ensure success of the new charter school system.

V. CONCLUSION

The Task Force believes the above recommendations create a solid governance structure for Hawaii's charter school system that preserves their autonomy while establishing clear lines of authority and accountability that will foster improved student outcomes.

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[9] Collective bargaining is a complex issue that requires all stakeholders to participate in any discussions on this issue. As such, the Task Force believes it is prudent that the Chair of the Senate Committee on Judiciary and Labor, Chair of the House Committee on Labor and Public Employment, Attorney General, Department of Education, and representatives from the applicable labor unions hold separate meetings to discuss issues related to collective bargaining and charter school autonomy as it relates to personnel management. See Minutes of the Task Force dated November 2, 2011, attached as Appendix K.

[10] The Task Force will be recommending a change in the definition of "charter school" to include charter schools and their governing boards in light of the recent Hawaii Intermediate Court of Appeals decision holding that a charter school's local school board as a public school and an entity of the State may not sue another entity or agency of the State. See Waters of Life Local School Board v. Charter School Review Panel, No. 30441, October 21, 2011.

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

DRAFT

S.B. NO.

A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

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

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

In conducting its work, the task force looked at various sections of the charter school model law put forth by the National Alliance for Public Charter Schools and used the model

DRAFT S.B. NO.

law as a guide in compiling its recommendations to the legislature.

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

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

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

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

"CHAPTER

PUBLIC CHARTER SCHOOLS

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

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1 "Application" means a proposal from an applicant to an
2 authorizer to enter into a charter contract whereby the proposed
3 school obtains public charter school status.
4 "Authorizer" means an entity authorized under this chapter
5 to review applications, decide whether to approve or reject
6 charter applications, enter into charter contracts with
7 applicants, oversee public charter schools, and decide whether
8 to authorize, reauthorize, or reject charter contracts. The
9 term may include the commission when appropriate.
10 "Charter contract" means a fixed-term, renewable contract
11 between a public charter school and an authorizer that outlines
12 the roles, powers, responsibilities, and performance
13 expectations for each party to the contract.
14 "Charter school" or "public charter school" refers to those
15 public schools and their respective governing boards, as defined
16 in this section, that are holding charters to operate as charter
17 schools under this chapter, including start-up and conversion
18 charter schools, and that have the flexibility and independent
19 authority to implement alternative frameworks with regard to
20 curriculum, facilities management, instructional approach,
21 virtual education, length of the school day, week, or year, and
22 personnel management.

"Commission" means the state public charter school commission established pursuant to -3.

"Conversion charter school" means:

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

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

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

"Department" means the department of education.

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

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

1 (1) Is responsible for the financial, organizational, and
2 academic viability of the charter school and
3 implementation of the charter;
4 (2) Possesses the independent authority to determine the
5 organization and management of the school, the
6 curriculum, and virtual education;
7 (3) Has the power to negotiate supplemental collective
8 bargaining agreements with exclusive representatives
9 of their employees; and
10 (4) Ensures compliance with applicable state and federal
11 laws.
12 "Nonprofit organization" means a private, nonprofit,
13 tax-exempt entity that:
14 (1) Is recognized as a tax-exempt organization under
15 section 501(c)(3) of the Internal Revenue Code; and
16 (2) Is domiciled in this State.
17 "Organizational viability" means that a charter school:
18 (1) Has been duly constituted in accordance with its
19 charter;
20 (2) Has a governing board established in accordance with
21 law and the charter school's charter;

DRAFT S.B. NO.

(3) Employs sufficient faculty and staff to provide the necessary educational program and support services to operate the facility in accordance with its charter;

(4) Maintains accurate and comprehensive records regarding students and employees as determined by its authorizer;

(5) Meets appropriate standards of student achievement;

(6) Cooperates with board, commission, and authorizer requirements in conducting its functions;

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

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

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

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

(11) Complies with all commission and authorizer directives, policies, and procedures.

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

§ -2 Existing charter schools. (a) Any charter school holding a charter to operate under part IV, subpart D, of chapter 302A, as that subpart existed before July 11, 2006, shall be considered a charter school for the purposes of this chapter.

(b) Any charter school holding a charter to operate under chapter 302B as it existed before July 1, 2013, shall be considered a charter school for the purposes of this chapter.

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

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

1 (c) The commission shall consist of nine members to be
2 appointed by the board of education. The board shall appoint
3 members who will be tasked with authorizing public charter
4 schools that serve the unique and diverse needs of public school
5 students. The chair of the commission shall be designated by
6 the members of the commission for each school year beginning
7 July 1, and whenever there is a vacancy. The board shall
8 consider the combination of abilities, breadth of experiences,
9 and characteristics of the commission, including but not limited
10 to reflecting the diversity of the student population,
11 geographical representation, and a broad representation of
12 education-related stakeholders.
13 (d) Understanding that the role of the commission is to
14 ensure a long-term strategic vision for Hawaii's public charter
15 schools, each nominee to the commission shall meet the following
16 minimum qualifications:
17 (1) Commitment to education. Each nominee's record should
18 demonstrate a deep and abiding interest in education,
19 and a dedication to the social, academic, and
20 character development of young people through the
21 administration of a high performing charter school
22 system;

1 (2) Record of integrity, civic virtue, and high ethical
2 standards. Each nominee shall demonstrate integrity,
3 civic virtue, and high ethical standards and be
4 willing to hold fellow commission members to the same;
5 (3) Availability for constructive engagement. Each
6 nominee shall commit to being a conscientious and
7 attentive commission member; and
8 (4) Knowledge of best practices. Each nominee shall have
9 an understanding of best practices in charter school
10 educational governance or shall be willing to be
11 trained in such.
12 (e) Each nominee to the commission shall ideally meet the
13 following recommended qualifications:
14 (1) Experience governing complex organizations. Each
15 nominee should possess experience with complex
16 organizations, including but not limited to
17 performance contract management, and a proven ability
18 to function productively within them; and
19 (2) Collaborative leadership ability. Each nominee should
20 have substantial leadership experience that ideally
21 illustrates the nominee's ability to function among
22 diverse colleagues as an effective team member, with

1 the ability to articulate, understand, and help shape
2 consensus surrounding commission policies.
3 (f) Five members of the commission shall constitute a
4 quorum to conduct business and a concurrence of at least five
5 members shall be necessary to make any action of the commission
6 valid.
7 (g) Commission members shall serve not more than three
8 consecutive three-year terms, with each term beginning on
9 July 1; provided that the initial terms that commence after
10 June 30, 2012, shall be staggered as follows:
11 (1) Three members, including the chairperson, to serve
12 three-year terms;
13 (2) Three members to serve two-year terms; and
14 (3) Three members to serve one-year terms.
15 (h) Commission members shall receive no compensation.
16 When commission duties require that a commission member take
17 leave of the member's duties as a state employee, the
18 appropriate state department shall allow the commission member
19 to be placed on administrative leave with pay and shall provide
20 substitutes, when necessary, to fulfill that member's duties.
21 Members shall be reimbursed for necessary travel expenses
22 incurred in the conduct of official commission business.

1 (i) The commission shall establish operating procedures
2 that shall include conflict of interest procedures for any
3 member whose school of employment or governing board is before
4 the commission.
5 (j) The commission shall operate with dedicated resources
6 and staff qualified to execute the day-to-day responsibilities
7 of the commission pursuant to this chapter.
8 **§ -4 Chartering authority application for eligible**
9 **entities.** (a) The board of education shall establish, through
10 administrative rules, the annual application and approval
11 process for all entities eligible to apply for chartering
12 authority pursuant to this section. Following the adoption of
13 administrative rules, by June 30 of each year, the board shall
14 make available information and guidelines for all eligible
15 entities concerning the opportunity to apply for chartering
16 authority under this chapter. The application process shall
17 require each interested eligible entity to submit an application
18 that clearly explains or presents the following elements:
19 (1) Written notification of intent to serve as a charter
20 authorizer in accordance with this chapter;
21 (2) The applicant entity's strategic vision for
22 chartering;

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

1 the entity will fully participate in any authorizer
2 training provided or required by the State; and
3 (8) A statement of assurance that the applicant will
4 ensure public accountability and transparency in all
5 matters concerning its charter-authorizing practices,
6 decisions, and expenditures.
7 (b) By June 30 of each year, the board shall decide
8 whether to grant or deny chartering authority to each applicant.
9 The board shall make its decisions on the merits of each
10 applicant's proposal and plans.
11 (c) Within days of the board's decision, the board
12 shall execute a renewable authorizing contract with each entity
13 it has approved for chartering authority. The initial term of
14 each authorizing contract shall be six years. The authorizing
15 contract shall specify each approved entity's agreement to serve
16 as a charter authorizer in accordance with the expectations of
17 this chapter, and shall specify additional performance terms
18 based on the applicant's proposal and plan for chartering. No
19 approved entity shall commence charter authorizing without an
20 authorizing contract in effect.
21 (d) This section shall not apply to the commission.

1 **§ -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 public charter school;
12 (5) Monitoring, in accordance with charter contract terms,
13 the performance and legal compliance of public charter
14 schools; and
15 (6) Determining whether each charter contract merits
16 renewal, nonrenewal, or revocation.
17 (b) An authorizer shall:
18 (1) Act as the point of contact between the department and
19 a public charter school it authorizes and be
20 responsible for the administration of all applicable
21 state and federal laws;

1 (2) Be responsible for and ensure compliance of a charter
2 school it authorizes with all applicable state and
3 federal laws, including reporting requirements;
4 (3) Be responsible for the receipt of applicable federal
5 funds from the department and the distribution of
6 funds to the public charter school it authorizes; and
7 (4) Be responsible for the receipt of per-pupil funding
8 from the department of budget and finance and
9 distribution of the funding to the public charter
10 school it authorizes.
11 (c) An authorizing entity may delegate its duties to
12 officers, employees, and contractors.
13 (d) Regulation by authorizers shall be limited to the
14 powers and duties set forth in this section, and shall be
15 consistent with the spirit and intent of this chapter.
16 (e) An authorizing entity, members of the board of an
17 authorizer acting in their official capacity, and employees or
18 agents of an authorizer are immune from civil and criminal
19 liability with respect to all activities related to a public
20 charter school authorized by that entity.
21 (f) Technical support to charter schools shall not be
22 provided by an authorizer.

1 **§ -6 Principles and standards for charter authorizing.**
2 All authorizers shall be required to develop and maintain
3 chartering policies and practices consistent with nationally
4 recognized principles and standards for quality charter
5 authorizing in all major areas of authorizing responsibility
6 including:
7 (1) Organizational capacity and infrastructure;
8 (2) Soliciting and evaluating charter applications;
9 (3) Performance contracting;
10 (4) Ongoing public charter school oversight and
11 evaluation; and
12 (5) Charter renewal decision-making.
13 Authorizers shall carry out all their duties under this
14 chapter in a manner consistent with nationally recognized
15 principles and standards and with the spirit and intent of this
16 chapter. Evidence of material or persistent failure to do so
17 shall constitute grounds for losing charter authorizing powers.
18 **§ -7 Authorizer reporting.** Every authorizer shall be
19 required to submit to the board of education and the legislature
20 an annual report summarizing:
21 (1) The authorizer's strategic vision for chartering and
22 progress toward achieving that vision;

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

1 (6) A line-item breakdown of the federal funds received by
2 the department and distributed by the authorizer to
3 public charter schools under its control; and
4 (7) Any concerns regarding equity and recommendations to
5 improve access to and distribution of federal funds to
6 public charter schools.
7 § -8 **Conflict of interests.** No employee, trustee,
8 agent, or representative of an authorizer may simultaneously
9 serve as an employee, trustee, agent, representative, vendor, or
10 contractor of a public charter school authorized by that
11 authorizer.
12 § -9 **Exclusivity of authorizing functions and rights.**
13 No governmental or other entity, other than those expressly
14 granted chartering authority as set forth in this chapter, may
15 assume any charter authorizing function or duty in any form,
16 unless expressly allowed by law.
17 § -10 **Services purchased from authorizer; itemized**
18 **accounting.** (a) No public charter school shall be required to
19 purchase services from its authorizer as a condition of charter
20 approval or renewal or of executing a charter contract, nor may
21 any such condition be implied.

1 (b) A public charter school may, at its discretion, choose
2 to purchase services from its authorizer. In such event, the
3 public charter school and authorizer shall execute an annual
4 service contract, separate from the charter contract, stating
5 the parties' mutual agreement concerning any services to be
6 provided by the authorizer and any service fees to be charged to
7 the public charter school. An authorizer may not charge more
8 than market rates for services provided to a public charter
9 school.
10 (c) Within days after the end of each fiscal year,
11 each authorizer shall provide to each public charter school it
12 oversees an itemized accounting of the actual costs of services
13 purchased by the public charter school from the authorizer. Any
14 difference between the amount initially charged to the public
15 charter school and the actual cost shall be reconciled and paid
16 to the owed party. If either party disputes the itemized
17 accounting, any charges included in the accounting, or charges
18 to either party, the disputing party is entitled to request a
19 third-party review at its own expense. The review shall be
20 conducted by the board of education whose determination shall be
21 final.

1 **§ -11 Oversight of public charter school authorizers.**
2 (a) The board of education shall be responsible for overseeing
3 the performance and effectiveness of all authorizers established
4 under this chapter.
5 (b) In accordance with section -7, every authorizer
6 shall submit to the board of education and the legislature an
7 annual report. The board shall, by of each year,
8 communicate to every authorizer the requirements for the format,
9 content, and submission of the annual report.
10 (c) Persistently unsatisfactory performance of an
11 authorizer's portfolio of public charter schools, a pattern of
12 well-founded complaints about the authorizer or its public
13 charter schools, or other objective circumstances may trigger a
14 special review by the board of education. In reviewing or
15 evaluating the performance of authorizers the board shall apply
16 nationally recognized principles and standards for quality
17 charter authorizing. If at any time the board finds that an
18 authorizer is not in compliance with an existing charter
19 contract, its authorizing contract with the board, or the
20 requirements of all authorizers under this chapter, the board
21 shall notify the authorizer in writing of the identified

1 problems, and the authorizer shall have reasonable opportunity
2 to respond to and remedy the problems.
3 (d) If an authorizer persists, after due notice from the
4 board, in violating a material provision of a charter contract
5 or its authorizing contract with the board, or fails to remedy
6 other identified authorizing problems, the board shall notify
7 the authorizer, within a reasonable amount of time under the
8 circumstances, that it intends to revoke the authorizer's
9 chartering authority unless the authorizer demonstrates a timely
10 and satisfactory remedy for the violation or deficiencies.
11 (e) In the event of revocation of any authorizer's
12 chartering authority, the board shall manage the timely and
13 orderly transfer of each charter contract held by that
14 authorizer to another authorizer in the State, with the mutual
15 agreement of each affected public charter school and proposed
16 new authorizer. The new authorizer shall assume the existing
17 charter contract for the remainder of the charter term.
18 **§ -12 Charter school governing boards; powers and**
19 **duties.** (a) All governing boards, with the exception of those
20 of conversion charter schools that are managed and operated by a
21 nonprofit organization pursuant to section -14, shall be
22 composed of no more than thirteen members; provided that no more

1 than thirty per cent of the members shall be employees of a
2 school or relatives of employees of a school under the
3 jurisdiction of that governing board. In selecting members,
4 consideration shall be given to persons who:
5 (1) Demonstrate an understanding of best practices of non-
6 profit governance;
7 (2) Possess strong financial management, academic
8 oversight, human resources, and fundraising
9 experience; and
10 (3) Provide the governing board with a diversity of
11 perspective and a level of objectivity that accurately
12 represent the interests of the charter school students
13 and the surrounding community.
14 (b) No employee of a charter school or relative of an
15 employee of a charter school may serve as the chair of the
16 governing board of that charter school; provided that an
17 authorizer may grant an exemption from the provisions of this
18 subsection based upon a determination by the authorizer that an
19 exemption is in the best interest of the charter school.
20 (c) The governing board shall be the independent governing
21 body of its charter school and shall have oversight over and be
22 responsible for the financial and academic viability of the

1 charter school, implementation of the charter, and the
2 independent authority to determine the organization and
3 management of the school, the curriculum, virtual education, and
4 compliance with applicable federal and state laws. The
5 governing board shall have the power to negotiate supplemental
6 collective bargaining agreements with the exclusive
7 representatives of their employees.
8 (d) Governing boards shall be exempt from chapter 103D,
9 but shall develop internal policies and procedures for the
10 procurement of goods, services, and construction, consistent
11 with the goals of public accountability and public procurement
12 practices. Governing boards and charter schools are encouraged
13 to use the provisions of chapter 103D wherever possible;
14 provided that the use of one or more provisions of chapter 103D
15 shall not constitute a waiver of the exemption from chapter 103D
16 and shall not subject the charter school to any other provision
17 of chapter 103D.
18 (e) Charter schools and their governing boards shall be
19 exempt from the requirements of chapters 91 and 92. The
20 governing boards shall:
21 (1) Make available the notices and agendas of public
22 meetings:

1 (A) At a publicly accessible area in the governing
2 board's office and the commission's office so as
3 to be available for review during regular
4 business hours; and
5 (B) On the governing board's or charter school's
6 internet website, if applicable, and the
7 commission's internet website not less than six
8 calendar days prior to the public meeting, unless
9 a waiver is granted by the chair of the
10 commission in the case of an emergency; and
11 (2) Make available the minutes from public meetings on a
12 timely basis and maintain a list of the current names
13 and contact information of the governing board's
14 members and officers:
15 (A) In the governing board's office and the
16 commission's office so as to be available for
17 review during regular business hours; and
18 (B) On the governing board's or charter school's
19 internet website, if applicable, and the
20 commission's internet website.

1 (f) Charter schools and their governing boards shall
2 develop internal policies and procedures consistent with ethical
3 standards of conduct, pursuant to chapter 84.
4 (g) The State shall afford the governing board of any
5 charter school the same protections as the State affords the
6 board of education.
7 (h) For purposes of this section, "employees" shall
8 include the chief executive officer, chief administrative
9 officer, executive director, or otherwise designated head of a
10 school.
11 **§ -13 Start-up charter schools; establishment.** (a) New
12 start-up charter schools may be established pursuant to this
13 section.
14 (b) Any community, group of teachers, group of teachers
15 and administrators, or nonprofit organization may submit a
16 letter of intent to an authorizer to form a charter school,
17 establish a governing board as its governing body, and develop
18 an application pursuant to subsection (d).
19 (c) The start-up charter school application process and
20 schedule shall be determined by the commission, and shall
21 provide for and include the following elements:

1 (1) The submission of a letter of intent to operate a
2 start-up charter school;
3 (2) The timely transmittal of the application form and
4 completion guidelines to the governing board;
5 (3) The timely submission of a completed application to
6 the authorizer;
7 (4) The timely review of the application by the authorizer
8 for completeness, and notification by the authorizer
9 to the interim governing board that the application is
10 complete;
11 (5) Upon receipt of a completed application, the convening
12 of the commission, if applicable, by the commission
13 chairperson to begin review of the application;
14 (6) Following the submission of an application, issuance
15 of a charter or denial of the application by the
16 authorizer or if submitted to the commission, by
17 majority vote;
18 (7) A provision for a final date by which a decision must
19 be made, upon receipt of a complete application; and
20 (8) A provision that no start-up charter school may begin
21 operation before obtaining authorizer approval of its
22 charter and charter contract.

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

1 individually and collectively accountable for
2 their performance, and that is at least
3 equivalent to the average system of
4 accountability in public schools throughout the
5 State; and
6 (D) Provides for program audits and annual financial
7 audits;
8 (6) A governance structure for the charter school that
9 incorporates a conflict of interest policy and a plan
10 for periodic training to carry out the duties of
11 governing board members;
12 (7) A financial plan based on the most recent fiscal
13 year's per-pupil charter school allocation that
14 demonstrates the ability to meet the financial
15 obligations of one-time, start-up costs and ongoing
16 costs such as monthly payrolls, faculty recruitment,
17 professional development, and facilities costs; and
18 (8) A facilities plan.
19 (e) Any applicant whose charter application is denied by
20 the authorizer shall not be allowed to amend or resubmit the
21 application to the authorizer during a given cycle, as defined
22 by the authorizer; provided that an applicant shall have the

1 right to appeal the authorizer's denial of its application
2 pursuant to section -15.
3 § -14 **Conversion charter schools; establishment.** (a) A
4 conversion charter school may be established pursuant to this
5 section.
6 (b) Any department school, school community council, group
7 of teachers, group of teachers and administrators, or nonprofit
8 organization may submit a letter of intent to an authorizer to
9 convert a department school to a charter school, establish a
10 governing board as its governing body, and develop an
11 application pursuant to subsection (d).
12 (c) The conversion charter school application process and
13 schedule shall be determined by the commission, and shall
14 provide for and include the following elements:
15 (1) The submission of a letter of intent to convert to a
16 charter school;
17 (2) The timely transmittal of the application form and
18 completion guidelines to the governing board;
19 (3) The timely submission of a completed application to
20 the authorizer; provided that the application shall
21 include certification and documentation that the
22 application was approved by a majority of the votes

1 cast by existing administrative, support, teaching
2 personnel, and parents of students at the proposed
3 conversion charter school;
4 (4) The timely review of the application by the authorizer
5 for completeness, and notification by the authorizers
6 to the governing board that the application is
7 complete;
8 (5) Upon receipt of a completed application, the convening
9 of the commission, if applicable, by the commission
10 chairperson to begin review of the application;
11 (6) Following the submission of an application, issuance
12 of a charter or denial of the application by the
13 authorizer or if submitted to the commission, by
14 majority vote;
15 (7) A provision for a final date by which a decision must
16 be made upon receipt of a complete application; and
17 (8) A provision that no conversion charter school may
18 begin operation before obtaining authorizer approval
19 of its charter and charter contract.
20 (d) An application to become a conversion charter school
21 shall meet the requirements of this subsection and section
22 -25. The application shall include the following:

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

1 accountability in public schools throughout the
2 State; and
3 (D) Provides for program audits and annual financial
4 audits;
5 (6) A governance structure for the charter school that
6 incorporates a conflict of interest policy and a plan
7 for periodic training to carry out the duties of
8 governing board members;
9 (7) A 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 (8) 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 an
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 composed of the

1 board of directors of the nonprofit organization and
2 not representatives of the participant groups
3 specified in section -12. The nonprofit
4 organization may also appoint advisory groups of
5 community representatives for each school managed by
6 the nonprofit organization; provided that these groups
7 shall not have governing authority over the school and
8 shall serve only in an advisory capacity to the
9 nonprofit organization;
10 (2) The application for each conversion charter school to
11 be operated by the nonprofit organization shall be
12 formulated, developed, and submitted by the nonprofit
13 organization, and shall be approved by a majority of
14 the votes cast by existing administrative, support,
15 and teaching personnel, and parents of the students of
16 the proposed conversion charter school;
17 (3) The board of directors of the nonprofit organization,
18 as the governing body for the conversion charter
19 school that it operates and manages, shall have the
20 same protections that are afforded to the board of
21 education in its role as the conversion charter school
22 governing body;

1 (4) Any conversion charter school that is managed and
2 operated by a nonprofit organization shall be eligible
3 for the same federal and state funding as other public
4 schools; provided that the nonprofit organization
5 makes a minimum annual contribution of $1 per pupil
6 toward the operation of a conversion charter school
7 for every $4 per pupil allocated by the department of
8 budget and finance for the operation of the conversion
9 charter school; provided further that in no event
10 shall the nonprofit organization be required to
11 contribute more than the total required contribution
12 per pupil per year. As used in this paragraph, "total
13 required contribution" means:
14 (A) $1,650 for school years 2011-2012 through 2015-
15 2016; and
16 (B) $1,815 for school years 2016-2017 through 2020-
17 2021; and
18 (5) If, at any time, the board of directors of the
19 nonprofit organization governing the conversion
20 charter school votes to discontinue its relationship
21 with the charter school, the charter school may submit
22 a revised application to the authorizer to continue as

1 a conversion school without the participation of the
2 nonprofit organization.
3 (f) Any nonprofit organization that seeks to manage or
4 operate a conversion charter school as provided in subsection
5 (e) shall comply with the following at the time of application:
6 (1) Have bylaws or policies that describe the manner in
7 which business is conducted and policies that relate
8 to the management of potential conflict of interest
9 situations;
10 (2) Have experience in the management and operation of
11 public or private schools or, to the extent necessary,
12 agree to obtain appropriate services from another
13 entity or entities possessing such experience;
14 (3) Comply with all applicable federal, state, and county
15 laws, including licensure or accreditation, as
16 applicable; and
17 (4) Comply with any other requirements prescribed by the
18 department to ensure adherence with applicable
19 federal, state, and county laws, and the purposes of
20 this chapter.
21 (g) Any public school or schools, programs, or sections of
22 existing public school populations that are part of a separate

1 Hawaiian language immersion program using existing public school
2 facilities may submit a letter of intent to an authorizer to
3 form a conversion charter school pursuant to this section.
4 (h) In the event of a conflict between the provisions in
5 this section and other provisions in this chapter, this section
6 shall control.
7 (i) Any applicant whose charter application is denied by
8 the authorizer shall not be allowed to amend or resubmit the
9 application to the authorizer during a given cycle, as defined
10 by the authorizer, except as provided in subsection (e)(5);
11 provided that an applicant shall have the right to appeal the
12 authorizer's denial of its application pursuant to section
13 -15.
14 **§ -15 Appeals; charter school applications,**
15 **reauthorizations, or revocations.** The board shall have the
16 power to decide appeals of decisions by the commission or an
17 authorizer to deny the approval of a charter school application,
18 deny reauthorization of a charter school, or revoke a charter
19 school's charter. An appeal shall be filed with the board
20 within twenty-one calendar days of the receipt of the
21 notification of denial or revocation. Only a party whose
22 charter school application has been denied, whose

1 reauthorization has been denied, or whose charter has been
2 revoked may initiate an appeal under this section for cause.
3 The board shall review an appeal and issue a final decision
4 within sixty calendar days of the filing of the appeal. The
5 board may adopt applicable rules and procedures pursuant to
6 chapter 91 for implementing the appeals process.
7 **§ -16 Performance framework.** (a) The performance
8 provisions within the charter contract shall be based on a
9 performance framework that clearly sets forth the academic and
10 operational performance indicators, measures, and metrics that
11 will guide the authorizer's evaluations of each public charter
12 school. The performance framework shall include indicators,
13 measures, and metrics for, at a minimum:
14 (1) Student academic proficiency;
15 (2) Student academic growth;
16 (3) Achievement gaps in proficiency and growth between
17 major student subgroups;
18 (4) Attendance;
19 (5) Recurrent enrollment from year to year;
20 (6) Postsecondary readiness, as applicable for high
21 schools;
22 (7) Financial performance and sustainability; and

1 (8) Performance and stewardship, including compliance with
2 all applicable laws, rules, and terms of the charter
3 contract.
4 (b) Annual performance targets shall be set by each public
5 charter school in conjunction with its authorizer, and shall be
6 designed to help each school meet applicable federal, state, and
7 authorizer expectations.
8 (c) The performance framework shall allow the inclusion of
9 additional rigorous, valid, and reliable indicators proposed by
10 a public charter school to augment external evaluations of its
11 performance; provided that the authorizer approves the quality
12 and rigor of such school-proposed indicators, and they are
13 consistent with the purposes of this chapter.
14 (d) The performance framework shall require the
15 disaggregation of all student performance data by major student
16 subgroups, including gender, race, poverty status, special
17 education status, English as a second language status, and
18 gifted and talented status.
19 (e) For each public charter school it oversees, the
20 authorizer shall be responsible for collecting, analyzing, and
21 reporting all data from assessments in accordance with the
22 performance framework.

1 (f) Multiple schools operating under a single charter
2 contract or overseen by a single governing board shall be
3 required to report their performance as separate, individual
4 charter schools, and each charter school shall be held
5 independently accountable for its performance.
6 **§ -17 Ongoing oversight and corrective actions.** (a) An
7 authorizer shall continually monitor the performance and legal
8 compliance of the public charter schools it oversees, including
9 collecting and analyzing data to support ongoing evaluation
10 according to the charter contract. Every authorizer shall have
11 the authority to conduct or require oversight activities that
12 enable the authorizer to fulfill its responsibilities under this
13 chapter, including conducting appropriate inquiries and
14 investigations, so long as those activities are consistent with
15 the intent of this chapter and adhere to the terms of the
16 charter contract.
17 (b) Each authorizer shall annually publish and provide, as
18 part of its annual report to the board of education and the
19 legislature, a performance report for each public charter school
20 it oversees, in accordance with the performance framework set
21 forth in the charter contract and section -16. The
22 authorizer may require each public charter school it oversees to

1 submit an annual report to assist the authorizer in gathering
2 complete information about each school, consistent with the
3 charter contract.
4 (c) In the event that a public charter school's
5 performance or legal compliance appears unsatisfactory, the
6 authorizer shall promptly notify the public charter school of
7 the perceived problem and provide reasonable opportunity for the
8 charter school to remedy the problem, unless the problem
9 warrants revocation in which case the revocation timeframes set
10 forth in section -18 shall apply.
11 (d) Notwithstanding section -18 to the contrary, every
12 authorizer shall have the authority to take appropriate
13 corrective actions or exercise sanctions short of revocation in
14 response to apparent deficiencies in public charter school
15 performance or legal compliance. Such actions or sanctions may
16 include, if warranted, requiring a school to develop and execute
17 a corrective action plan within a specified timeframe.
18 (e) If there is an immediate concern for student or
19 employee health or safety at a charter school, the authorizer,
20 in consultation with the commission, may adopt an interim
21 restructuring plan that may include the appointment of an
22 interim governing board, a governing board chairperson, or a

1 principal to temporarily assume operations of the school;
2 provided that if possible without further jeopardizing the
3 health or safety of students and employees, the charter school's
4 stakeholders and community are first given the opportunity to
5 elect a new governing board which shall appoint a new interim
6 principal.

7 The board shall have the authority to direct the authorizer
8 to take appropriate action to immediately address serious health
9 and safety issues that may exist at a charter school in order to
10 ensure the health and safety of students and employees and
11 mitigate significant liability to the State.

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

19 (b) No later than , the authorizer shall issue a
20 charter school performance report and charter contract renewal
21 application guidance to any charter school whose charter
22 contract will expire the following year. The performance report

1 shall summarize the charter school's performance record to date,
2 based on the data required by this chapter and the charter
3 contract, and shall provide notice of any weaknesses or concerns
4 perceived by the authorizer concerning the charter school that
5 may jeopardize its position in seeking renewal if not timely
6 rectified. The charter school shall have days to respond
7 to the performance report and submit any corrections or
8 clarifications for the report.
9 (c) The renewal application guidance shall, at a minimum,
10 provide an opportunity for the public charter school to:
11 (1) Present additional evidence, beyond the data contained
12 in the performance report, supporting its case for
13 charter renewal;
14 (2) Describe improvements undertaken or planned for the
15 school; and
16 (3) Detail the charter school's plans for the next charter
17 term.
18 (d) The renewal application guidance shall include or
19 refer explicitly to the criteria that will guide the
20 authorizer's renewal decisions, which shall be based on the
21 charter contract and be consistent with this chapter.

1 (e) No later than , the governing board of a
2 charter school seeking renewal shall submit a renewal
3 application to the authorizer pursuant to the renewal guidance
4 issued by the authorizer. The authorizer shall decide whether
5 or not to renew the charter no later than days after the
6 filing of the renewal application.
7 (f) In making charter renewal decisions, every authorizer
8 shall:
9 (1) Ground its decisions in evidence of the school's
10 performance over the term of the charter contract in
11 accordance with the performance framework set forth in
12 the charter contract;
13 (2) Ensure that data used in making the renewal decisions
14 are available to the charter school and the public;
15 and
16 (3) Provide a public report summarizing the evidence and
17 basis for each decision.
18 (g) A charter contract may be revoked at any time or not
19 renewed if the authorizer determines that the charter school did
20 any of the following or otherwise failed to comply with the
21 provisions of this chapter:

1 (1) Committed a material and substantial violation of any
2 of the terms, conditions, standards, or procedures
3 required under this chapter or the charter contract;
4 (2) Failed to meet or make sufficient progress toward
5 performance expectations set forth in the contract;
6 (3) Failed to meet generally accepted standards of fiscal
7 management; or
8 (4) Substantially violated any material provision of law
9 from which the charter school is not exempted.
10 (h) An authorizer shall develop revocation and non-renewal
11 processes that:
12 (1) Provide the charter holders with a timely notification
13 of the prospect of revocation or non-renewal and the
14 reasons for such possible closure;
15 (2) Allow the charter holders a reasonable amount of time
16 in which to prepare a response;
17 (3) Provide the charter holders with an opportunity to
18 submit documents and give testimony challenging the
19 rationale for closure and supporting the continuation
20 of the school at an orderly proceeding held for that
21 purpose;

1 (4) Allow charter holders access to representation by
2 counsel and to call witnesses on their behalf;
3 (5) Permit the recording of proceedings described in
4 paragraph (3); and
5 (6) After a reasonable period for deliberation, require a
6 final determination to be made and conveyed in writing
7 to the charter holders.
8 (i) If an authorizer revokes or does not renew a charter,
9 the authorizer shall clearly state in writing the reasons for
10 the revocation or nonrenewal.
11 (j) Within days of taking action to renew, not
12 renew, or revoke a charter, the authorizer shall report to the
13 board the action taken, and shall simultaneously provide a copy
14 of the report to the charter school. The report shall set forth
15 the action taken and reasons for the decision and assurances as
16 to compliance with all the requirements set forth in this
17 chapter.
18 **§ -19 School closure and dissolution.** (a) Prior to any
19 public charter school closure decision, an authorizer shall have
20 developed a public charter school closure protocol to ensure
21 timely notification to parents, orderly transition of students
22 and student records to new schools, and proper disposition of

1 school funds, property, and assets in accordance with the
2 requirements of this chapter. The protocol shall specify tasks,
3 timelines, and responsible parties, including delineating the
4 respective duties of the school and the authorizer. In the
5 event of a public charter school closure for any reason, the
6 authorizer shall oversee and work with the closing school to
7 ensure a smooth and orderly closure and transition for students
8 and parents, as guided by the closure protocol.
9 (b) In the event of a public charter school closure for
10 any reason, the assets of the school, excluding facilities,
11 shall be distributed first to satisfy outstanding payroll
12 obligations for employees of the school, then to creditors of
13 the school, and then to the state treasury to the credit of the
14 general fund. If the assets of the school are insufficient to
15 pay all parties to whom the school owes compensation, the
16 prioritization of the distribution of assets may be determined
17 by decree of a court of law.
18 (c) In the event of a public charter school closure for
19 any reason, other public charter schools shall have the right of
20 first refusal for the closed public charter school's facilities.
21 If no other public charter school exercises the right of first

1 refusal, the facilities shall revert back to the department and
2 the State.
3 **§ -20 Charter transfers.** Transfer of a charter
4 contract, and of oversight of that public charter school, from
5 one authorizer to another before the expiration of the charter
6 term shall not be permitted except by special petition to the
7 board of education by a public charter school or its authorizer.
8 The board shall review such petitions on a case-by-case basis
9 and may grant transfer requests in response to special
10 circumstances and evidence that such a transfer would serve the
11 best interests of the public charter school's students.
12 **§ -21 Annual board report.** On or before of
13 each year, the board of education shall issue to the governor,
14 the legislature, and the public, an annual report on the State's
15 public charter schools, drawing from the annual reports
16 submitted by every authorizer as well as any additional relevant
17 data compiled by the board, for the school year ending in the
18 preceding calendar year. The annual report shall include:
19 (1) A comparison of the performance of public charter
20 school students with the performance of academically,
21 ethnically, and economically comparable groups of
22 students in public schools governed by chapter 302A;

1 (2) The board's assessment of the successes, challenges,
2 and areas for improvement in meeting the purposes of
3 this chapter, including the board's assessment of the
4 sufficiency of funding for public charter schools, and
5 any suggested changes in state law or policy necessary
6 to strengthen the State's public charter schools;
7 (3) A line-item breakdown of all federal funds received by
8 the department and distributed to authorizers; and
9 (4) Any concerns regarding equity and recommendations to
10 improve access to and distribution of federal funds to
11 public charter schools.
12 **§ -22 Board as final arbitrator.** (a) The board of
13 education shall serve as the final arbitrator of any dispute
14 between an authorizer, charter school, governing board, and the
15 department.
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 **§ -23 Uniform education reporting system.** The board of
22 education shall establish a uniform education reporting system

1 that shall include requirements for reporting fiscal, personnel,
2 and student data, by means of electronic transfer of data files
3 from charter schools to the department. All charter schools
4 shall comply with the requirements of the uniform education
5 reporting system by the beginning of the 2012-2013 school year.
6 **§ -24 Occupancy and use of facilities of public schools.**
7 (a) When the department considers whether to close any
8 particular public school, the department shall submit a notice
9 of possible availability of a public school or notice of vacancy
10 of a public school to the board pursuant to section
11 302A-1151.5(b); provided that the department has not elected to
12 use the public school to support education programs.
13 (b) If a charter school exclusively or jointly occupies or
14 uses buildings or facilities of a public school immediately
15 prior to converting to a charter school, upon conversion that
16 charter school shall be given continued exclusive or joint use
17 of the buildings or facilities; provided 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 school by:
13 (1) Promptly notifying all charter schools that the public
14 school is being considered for closure; and
15 (2) Affording each charter school an opportunity to submit
16 an application with a written explanation and
17 justification of why the charter school should be
18 considered for possible occupancy and use of the
19 facilities of the public school.
20 (d) After fully considering each charter school's
21 application and based on the applications received and on other
22 considerations, the board shall:

1 (1) Provide a written response to each charter school's
2 application after each application has been fully
3 considered;
4 (2) Compile a prioritized list of charter schools; and
5 (3) Make a final determination of which charter school, if
6 any, shall be authorized to use and occupy the public
7 school facilities.
8 (e) Upon the selection of a charter school to use a vacant
9 school facility or portion of a school facility, the department
10 and the charter school's authorizer shall enter into necessary
11 agreements within ninety days of the selection to carry out the
12 purposes of this section; provided that any agreement between
13 the authorizer and the department shall stipulate that a charter
14 school that uses and occupies a public school facility or
15 portion of a public school facility shall be responsible for the
16 full or pro rata share of the repair and maintenance costs for
17 that facility or portion of the facility, as the case may be.
18 (f) The board shall adopt policies and procedures
19 necessary to carry out the purposes of this section, including
20 but not limited to:
21 (1) Procedures for charter schools to apply in writing to
22 use vacant school facilities;

1 (2) Criteria for the board to use in determining which
2 charter schools to include on the prioritized list to
3 be submitted to the department; and
4 (3) Procedures for the board to notify charter school
5 applicants that are granted or denied the use of
6 vacant school facilities.
7 (g) For purposes of this section, "public school" means
8 any school that falls within the definition of public schools in
9 section 302A-101, except for charter schools.
10 **§ -25 Exemptions from state laws.** (a) Charter schools
11 shall be exempt from chapters 91 and 92 and all other state laws
12 in conflict with this chapter, except those regarding:
13 (1) Collective bargaining under chapter 89; provided that:
14 (A) The exclusive representatives as defined in
15 chapter 89 and the governing board of the charter
16 school may enter into supplemental agreements
17 that contain cost and noncost items to facilitate
18 decentralized decision-making;
19 (B) The agreements shall be funded from the current
20 allocation or other sources of revenue received
21 by the charter school; provided that collective
22 bargaining increases for employees shall be

1 allocated by the department of budget and finance
2 to the charter school's authorizer for
3 distribution to the charter school; and
4 (C) These supplemental agreements may differ from the
5 master contracts negotiated with the department;
6 (2) Discriminatory practices under section 378-2; and
7 (3) Health and safety requirements.
8 (b) Charter schools, the commission, and authorizers shall
9 be exempt from chapter 103D, but shall develop internal policies
10 and procedures for the procurement of goods, services, and
11 construction, consistent with the goals of public accountability
12 and public procurement practices. Charter schools, the
13 commission, and authorizers are encouraged to use the provisions
14 of chapter 103D where possible; provided that the use of one or
15 more provisions of chapter 103D shall not constitute a waiver of
16 the exemption from chapter 103D and shall not subject the
17 charter school, commission, or authorizer to any other provision
18 of chapter 103D. Charter schools, the commission, and
19 authorizers shall account for funds expended for the procurement
20 of goods and services, and this accounting shall be available to
21 the public.

1 (c) Any charter school, prior to the beginning of the
2 school year, may enter into an annual contract with any
3 department for centralized services to be provided by that
4 department.
5 (d) Notwithstanding any law to the contrary, as public
6 schools and entities of the State, a charter school, the
7 commission, and any authorizer may not bring suit against any
8 other entity or agency of the State.
9 **§ -26 Civil service status; employee rights.** (a) Civil
10 service employees of department schools shall retain their civil
11 service status upon the conversion of their school to a
12 conversion charter school. Positions in a conversion charter
13 school that would be civil service in a department public school
14 shall be civil service positions and subject to chapter 76. An
15 employee with civil service status at a conversion charter
16 school who transfers, is promoted, or takes a voluntary demotion
17 to another civil service position shall be entitled to all of
18 the rights, privileges, and benefits of continuous,
19 uninterrupted civil service. Civil service employees of a
20 conversion charter school shall have civil service status in the
21 department's civil service system and shall be entitled to all
22 rights, privileges, and benefits as other civil service

1 employees employed by the department. Exempt employees as
2 provided in section 76-16(b)(11)(B) of a conversion charter
3 school shall have support services personnel status in the
4 department's support services personnel system and shall be
5 entitled to all rights, privileges, and benefits as other exempt
6 employees employed by the department in their support services
7 personnel system.
8 (b) The State shall afford administrative, support, and
9 instructional employees in charter schools full participation in
10 the State's systems for retirement, workers' compensation,
11 unemployment insurance, temporary disability insurance, and
12 health benefits in accordance with the qualification
13 requirements for each.
14 (c) The department, to the extent possible, shall provide
15 its position listings to the commission, authorizers, and any
16 interested governing board of any charter school.
17 (d) The department, in conjunction with the commission and
18 authorizers, shall facilitate and encourage the movement of
19 instructional personnel between the department and charter
20 schools; provided that:
21 (1) Comparable and verifiable professional development and
22 employee evaluation standards and practices, as

1 determined and certified by the commission or
2 authorizer, are in place in charter schools for
3 instructional staff;
4 (2) Licensed charter school teachers, as determined by the
5 Hawaii teacher standards board, who are not yet
6 tenured in the department and are entering or
7 returning to the department after full-time employment
8 of no less than one full school year at a charter
9 school, shall be subject to no more than one year of
10 probationary status; and
11 (3) Tenured department licensed teachers, as determined by
12 the department, who transfer to charter schools shall
13 not be required to serve a probationary period.
14 **§ -27 Administration of workers' compensation.** The
15 department of human resources development shall administer
16 workers' compensation claims for employees of charter schools,
17 who shall be covered by the same self-insured workers'
18 compensation system as other public employees. The department
19 of human resources development shall process, investigate, and
20 make payments on claims; provided that:

1 (1) Charter schools shall compile the preliminary claim
2 form and forward it to the department of human
3 resources development; and
4 (2) The department of human resources development shall
5 receive no more than 0.07 per cent of the EDN 600
6 appropriation to process these workers' compensation
7 claims.
8 § -28 **Funding and finance.** (a) Beginning with fiscal
9 year 2012-2013, and each fiscal year thereafter, the non-
10 facility general fund per-pupil funding request for charter
11 school students shall be the same as the general fund per-pupil
12 amount to the department in the most recently approved executive
13 budget recommendation for the department and shall be based upon
14 reasonable projected enrollment figures for all charter schools.
15 The general fund per-pupil request for each regular education
16 and special education student shall:
17 (1) Include all general fund regular education cost
18 categories, including comprehensive school support
19 services, but excluding special education services,
20 adult education, and the after-school plus program;
21 provided that these services are provided and funded
22 by the department; and

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

2 (b) Fringe benefit costs for charter school employees,
3 regardless of the payroll system utilized by a charter school,
4 shall be included in the department of budget and finance's
5 annual budget request. No fringe benefit costs shall be charged
6 directly to or deducted from the charter school per-pupil
7 allocations.

8 The legislature shall make an appropriation based upon the
9 budget request; provided that the legislature may make
10 additional appropriations for facility and other costs.

11 The governor, pursuant to chapter 37, may impose
12 restrictions or reductions on charter school appropriations
13 similar to those imposed on other public schools.

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

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

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

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

1 from allotted funds and may be expended at the discretion of the
2 governing boards.
3 (d) Authorizers shall calculate a general fund per-pupil
4 amount based upon the amount of general funds appropriated by
5 the legislature and released by the governor and the projected
6 enrollment amount used to calculate the general funds
7 appropriated pursuant to subsection (a); provided that:
8 (1) Per-pupil distributions to the charter schools
9 pursuant to subsection (e) shall be based upon the
10 per-pupil amount as calculated by authorizers pursuant
11 to this subsection. The per-pupil distributions shall
12 be deposited into the charter schools account
13 established by subsection (i); and
14 (2) In years when the projected enrollment used to
15 calculate the per-pupil amount pursuant to this
16 subsection exceeds the total actual enrollment as
17 reported by the charter schools as of October 15, the
18 excess funds shall remain in the state treasury in the
19 charter schools account;
20 (A) General funds appropriated pursuant to this
21 section remaining in the charter schools account
22 within the state treasury at the end of each

1 fiscal year and in excess of $5,000,000 shall
2 lapse to the credit of the state general fund;
3 and
4 (B) General funds remaining in the charter schools
5 account in the state treasury appropriated
6 pursuant to this section that are less than
7 $5,000,000 shall carry over to subsequent years
8 to be used to provide per-pupil funding in years
9 when the projected enrollment amount is less than
10 the actual per-pupil enrollment reported by the
11 charter schools on October 15 of each year.
12 Authorizers shall submit a report to the legislature no
13 later than twenty days prior to the convening of each regular
14 session that contains each charter school's current school year
15 projection that is used to submit the budget request, the
16 updated May 15 enrollment projection, the actual October 15
17 enrollment count, the authorizer's reviewed and verified
18 enrollment count, and the November 15 enrollment count. This
19 report shall also provide an accounting of the use, if any, of
20 state general funds subject to paragraph (2)(B).
21 (e) To enable charter schools to access state funding
22 prior to the start of each school year, foster their fiscal

1 planning, enhance their accountability, and avoid over-
2 allocating general funds to charter schools based on self-
3 reported enrollment projections, authorizers shall:
4 (1) Provide sixty per cent of a charter school's per-pupil
5 allocation based on the charter school's projected
6 student enrollment no later than July 20 of each
7 fiscal year; provided that the charter school shall
8 have submitted to its authorizer a projected student
9 enrollment no later than May 15 of each year;
10 (2) Provide an additional thirty per cent of a charter
11 school's per-pupil allocation no later than December 1
12 of each year, based on the October 15 student
13 enrollment, as reviewed and verified by the
14 authorizer, only to schools in compliance with all
15 financial reporting requirements; and
16 (3) Retain no more than the balance of the remaining ten
17 per cent of a charter school's per-pupil allocation,
18 as a contingency balance to ensure fiscal
19 accountability and compliance, no later than June 30
20 of each year;
21 provided that the board may make adjustments in allocations
22 based on noncompliance with board policies made in the board's

capacity as the state education agency, department directives made in the department's capacity as the state education agency, the board's administrative procedures, and board-approved accountability requirements.

(f) Any check transferring a per-pupil allocation from an authorizer to a charter school under this section shall be co-signed by the executive director of the commission and an authorized agent of the authorizer.

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

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

(i) There is created in the treasury of the State, as a separate account, the charter schools account, into which shall be deposited per-pupil distributions in accordance with subsection (d).

§ -29 Weighted student formula. (a) Notwithstanding section -28, charter schools shall elect whether to receive allocations according to the department's weighted student formula adopted pursuant to section 302A-1303.6; provided that:

1 (1) All charter schools, as a group, with each governing
2 board being accorded one vote, shall elect, by greater
3 than two-thirds agreement among the governing boards,
4 whether to receive allocations through the
5 department's weighted student formula; provided that a
6 nonprofit organization that governs more than one
7 conversion charter school may cast one vote
8 representing each school it governs;
9 (2) Any election by charter schools to receive department
10 allocations, or not to receive allocations, through
11 the department's weighted student formula shall be
12 made by September 1 of each even-numbered year, and
13 the election shall apply to the fiscal biennium
14 beginning July 1 of the following year; provided that
15 the appropriate funds shall be transferred by the
16 department to the authorizers for distribution to the
17 charter schools they authorize; and
18 (3) The election to receive allocations, or not to receive
19 allocations, through the department's weighted student
20 formula shall be communicated to the department
21 through the commission.

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

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

18 (b) The department shall be responsible for the provision
19 of a free appropriate public education. Any charter school that
20 enrolls special education students or identifies one of its
21 students as eligible for special education shall be responsible
22 for providing the educational and related services required by a

1 student's individualized education program. The programs and
2 services for the student shall be determined collaboratively by
3 the student's individualized education program team and the
4 student's parents or legal guardians.
5 If the charter school is unable to provide all of the
6 required services, then the department shall provide the student
7 with services as determined by the student's individualized
8 educational program team. The department shall collaborate with
9 the commission to develop guidelines related to the provision of
10 special education services and resources to each charter school.
11 The department shall review all of the current individualized
12 education programs of special education students enrolled in a
13 charter school and may offer staff, funding, or both, to the
14 charter school based upon a per-pupil weighted formula
15 implemented by the department and used to allocate resources for
16 special education students in the public schools.
17 **§ -31 Sports.** The department shall provide students at
18 charter schools with the same opportunity to participate in
19 athletics as is provided to students at other public schools.
20 If a student at a charter school wishes to participate in a
21 sport for which there is no program at the charter school, the
22 department shall allow that student to participate in a

1 comparable program of any public school in the complex in which
2 the charter school is located."
3 SECTION 3. Section 26-35.5, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:
5 "(a) For purposes of this section, "member" means any
6 person who is appointed, in accordance with the law, to serve on
7 temporary or permanent state board, including members of the
8 board of education, the [~~local school~~] governing board of any
9 charter school established under chapter [~~302B,~~] _____, council,
10 authority, committee, or commission, established by law or
11 elected to the board of trustees of the employees' retirement
12 system under section 88-24, or the corporation board of the
13 Hawaii health systems corporation under section 323F-3 and its
14 regional system boards under section 323F-3.5; provided that
15 "member" shall not include any person elected to serve on a
16 board or commission in accordance with chapter 11."
17 SECTION 4. Section 89-6, Hawaii Revised Statutes, is
18 amended by amending subsection (f) to read as follows:
19 "(f) The following individuals shall not be included in
20 any appropriate bargaining unit or be entitled to coverage under
21 this chapter:
22 (1) Elected or appointed official;

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

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

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

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

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

(7) Temporary employee of three months' duration or less;

(8) Employee of the executive office of the governor or a household employee at Washington Place;

(9) Employee of the executive office of the lieutenant governor;

(10) Employee of the executive office of the mayor;

(11) Staff of the legislative branch of the State;

(12) Staff of the legislative branches of the counties, except employees of the clerks' offices of the counties;

(13) Any commissioned and enlisted personnel of the Hawaii national guard;

(14) Inmate, kokua, patient, ward, or student of a state institution;

(15) Student help;

(16) Staff of the Hawaii labor relations board;

(17) Employees of the Hawaii national guard youth challenge academy; or

(18) Employees of the office of elections."

SECTION 5. Section 89-10.55, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

"(c) For the purpose of negotiating a memorandum of agreement or a supplemental agreement that only applies to employees of a charter school, the employer shall mean the [~~local school~~] <u>governing</u> board, subject to the conditions and

requirements contained in the applicable sections of this chapter governing any memorandum of agreement or supplemental agreement.

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

SECTION 6. Section 302A-101, Hawaii Revised Statutes, is amended as follows:

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

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

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

2. By deleting the definitions of "charter school administrative office" and "charter school review panel".

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

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

SECTION 7. Section 302A-1101, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

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

SECTION 8. Section 302A-1151.5, Hawaii Revised Statutes, is amended by amending subsections (b) to (e) to read as follows:

"(b) The department shall submit a notice of possible availability of a public school to the [~~charter school review~~

1 ~~panel~~] board as early as possible; provided that if a vacancy is
2 established, a notice of vacancy shall be submitted to the
3 [~~charter school review panel~~] board no later than thirty days
4 after the establishment of the vacancy.
5 (c) Pursuant to section [~~302B-3.6~~] ____-24 and upon
6 receipt of a notice pursuant to subsection (b), the [~~charter~~
7 ~~school review panel~~] board shall solicit applications from
8 charter schools interested in using and occupying all or
9 portions of the facilities of the public school and submit a
10 prioritized list of charter schools to the department for final
11 determination of which charter school, if any, shall be
12 authorized to use and occupy the public school facilities.
13 (d) Upon the selection of a charter school to use a vacant
14 school facility or portion of a school facility, the department
15 and the [~~charter school review panel~~] selected charter school's
16 governing board shall enter into necessary agreements within
17 ninety days of the selection to carry out the purposes of this
18 section.
19 (e) After receipt by the [~~charter school review panel~~]
20 board of a notice pursuant to subsection (b), if the [~~charter~~
21 ~~school review panel~~] board does not [~~provide~~] compile a
22 prioritized list of charter schools because no charter school

has requested to use the facilities of the public school, or if the [~~department receives the prioritized list but~~] board determines that no charter school on the list is an appropriate candidate to occupy and use the facilities, the department shall give reasonable consideration to making all or portions of the facilities of the public school, if closed, available for occupancy and use for other educational purposes."

SECTION 9. Section 302A-1403, Hawaii Revised Statutes, is amended to read as follows:

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

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

"(a) The department and the state public charter school [~~administrative office,~~] commission or an authorizer, as appropriate, may retain and expend federal indirect overhead reimbursements for discretionary grants in excess of the negotiated rate for such reimbursements as determined by the

director of finance and the superintendent or the director of finance and the [~~executive director of the~~] state public charter school [~~administrative office.~~] commission or an authorizer, as appropriate."

SECTION 11. Section 302A-1505, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Prior to informing the department about the school's repair and maintenance needs, the school's principal shall consider the recommendations made by the school community council or the [~~local school~~] governing board, if the school is a charter school."

SECTION 12. Chapter 302B, Hawaii Revised Statutes, is repealed.

SECTION 13. Notwithstanding any law to the contrary, the members of the charter school review panel serving on the day of the effective date of this Act shall serve on the state public charter school commission until the appointment of no fewer than five members to the state public charter school commission pursuant to section 2 this Act, at which time all members of the charter school review panel shall be discharged from service and the members of the state public charter school commission shall begin their service; provided that any vacancy in the charter

1 school review panel occurring between the effective date of this
2 Act and the discharge from office of all charter school review
3 panel members shall remain vacant until appointed to the state
4 public charter school commission by the board of education
5 pursuant to this Act.
6 SECTION 14. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.
8 SECTION 15. This Act shall take effect on July 1, 2013.
9

INTRODUCED BY: _____

DRAFT S.B. NO.

Report Title:
Education; Charter Schools

Description:
Establishes a new chapter governing charter schools based on the recommendations of the charter school governance, accountability, and authority task force established by Act 130, Session Laws of Hawaii 2011. Repeals chapter 302B, HRS. Makes housekeeping amendments.

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

THE SENATE
TWENTY-SIXTH LEGISLATURE, 2012
STATE OF HAWAII

DRAFT S.B. NO.

A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

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

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

In conducting its work, the task force looked at various sections of the charter school model law put forth by the National Alliance for Public Charter Schools and used the model

1 law as a guide in compiling its recommendations to the
2 legislature.
3 The task force was also fortunate to have the assistance
4 and input of the National Association of Charter School
5 Authorizers and the National Governors Association.
6 The task force concluded its work and issued its report and
7 recommendations to the legislature, which are included in S.B.
8 No. , Regular Session of 2012.
9 The purpose of this Act is to require the board of
10 education to contract for an implementation and transition
11 coordinator to assist in creating a comprehensive transition
12 framework to implement the recommendations of the task force,
13 included in S.B. No. , Regular Session of 2012.
14 SECTION 2. (a) The board of education, in consultation
15 with national organizations such as the National Governors
16 Association, National Association of Charter School Authorizers,
17 and National Alliance for Public Charter Schools, shall develop
18 a scope of work to contract for an implementation and transition
19 coordinator to assist with:
20 (1) Implementation of the recommendations of the charter
21 school governance, accountability, and authority task

1 force pursuant to Act 130, Session Laws of Hawaii
2 2011; and
3 (2) The transition from the current charter school system
4 under chapter 302B, Hawaii Revised Statutes, to the
5 charter school system proposed in S.B. No. ,
6 Regular Session of 2012.
7 (b) At a minimum, the board shall contract for an
8 implementation and transition coordinator that possesses the
9 following:
10 (1) Knowledge of best practices in educational governance
11 and accountability, with a strong emphasis on charter
12 schools;
13 (2) Extensive experience in public policy and
14 administration, specifically working with state policy
15 makers and community stakeholders; and
16 (3) Demonstrated strong written and oral communication
17 skills.
18 (c) The scope of work developed pursuant to subsection (a)
19 shall, at a minimum, require the implementation and transition
20 coordinator to:
21 (1) Develop a comprehensive plan for the implementation of
22 the recommendations of the charter school governance,

accountability, and authority task force as set forth in S.B. No. , Regular Session of 2012, including the development of a communications plan, a plan for engaging key charter school stakeholders, and development of a strategy for the monitoring and evaluation of the implementation efforts by the board of education;

(2) Draft policies and procedures, including administrative rules, necessary for the implementation of S.B. No. , Regular Session of 2012;

(3) Assist in developing position descriptions for and recruitment of the state public charter school commission staff as detailed in the charter school governance, accountability, and authority task force report to the legislature pursuant to Act 130, Session Laws of Hawaii 2011;

(4) Determine a plan and develop procedures for the redistribution of the duties of the charter school administrative office to other charter school stakeholders upon the repeal of the charter school administrative office pursuant to S.B. No. , Regular Session of 2012;

1 (5) Develop a funding plan to address the transition of
2 current charter school administrative office staff to
3 the state public charter school commission established
4 pursuant to S.B. No. , Regular Session of 2012;
5 (6) Assist the board of education with the recruitment and
6 selection of members to the state public charter
7 school commission established pursuant to S.B.
8 No. , Regular Session of 2012;
9 (7) Prepare communications and coordinate collaboration
10 between charter schools, governing boards, charter
11 school authorizers, board of education, department of
12 education, other state departments, and the
13 legislature in carrying out the scope of work; and
14 (8) Assist the department of education in taking an
15 inventory of all full time employee positions within
16 the department that work with charter schools and
17 making a recommendation as to which positions may be
18 repurposed or redirected based upon the statutory
19 changes required by S.B. No. , Regular Session of
20 2012.
21 (c) The board of education shall be responsible for
22 awarding and overseeing the contract.

1 (d) The term of the contract shall be for one year;
2 provided that the board of education and the implementation and
3 transition coordinator may enter into supplemental contracts as
4 the board of education may deem necessary to carry out the
5 purposes of this Act.
6 (e) Chapter 103D, Hawaii Revised Statutes, shall not apply
7 to the contracting of the implementation and transition
8 coordinator pursuant to this Act.
9 SECTION 3. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of $ or so
11 much thereof as may be necessary for fiscal year 2012-2013 for
12 the board of education to contract for an implementation and
13 transition coordinator.
14 The sum appropriated shall be expended by the department of
15 education for the purposes of this Act.
16 SECTION 4. This Act shall take effect on July 1, 2012,
17 only if S.B. No. in any form passed by the legislature,
18 Regular Session of 2012, becomes an Act.
19

INTRODUCED BY: _____

DRAFT S.B. NO.

Report Title:
Charter Schools; Board of Education; Appropriation

Description:
Requires the Board of Education to contract for an implementation and transition coordinator to assist with the implementation of S.B. No. , Regular Session of 2012. Makes an appropriation.

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