

ACT 16

H.B. NO. 2613

A Bill for an Act Relating to Statutory Revision: Amending, Reenacting, or Repealing Various Provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii for the Purpose of Correcting Errors and References, Clarifying Language, and Deleting Obsolete or Unnecessary Provisions.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 11-1.6, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The chief election officer shall serve for a term of four years. The term shall begin on February 1 following the appointment~~[, except that the term for the first appointed chief election officer shall commence ninety days following the date of appointment, or on February 1, 1996, whichever comes first, and shall end on January 31, 1999].~~”

SECTION 2. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (o) to read as follows:

“(o) Every person licensed under any chapter within the jurisdiction of the department of commerce and consumer affairs and every person licensed subject to chapter 485 or registered under chapter 467B shall pay upon issuance of a license, permit, certificate, or registration a fee and a subsequent annual fee to be determined by the director and adjusted from time to time to ensure that the proceeds, together with all other fines, income, and penalties collected under this section, do not surpass the annual operating costs of conducting compliance resolution activities required under this section. The fees may be collected biennially or pursuant to rules adopted under chapter 91, and shall be deposited into the special fund established under this subsection. Every filing pursuant to chapter 514E or section 485-6(15) shall be assessed, upon initial filing and at each renewal period in which a renewal is

required, a fee that shall be prescribed by rules adopted under chapter 91, and that shall be deposited into the special fund established under this subsection. Any unpaid fee shall be paid by the licensed person, upon application for renewal, restoration, reactivation, or reinstatement of a license, and by the person responsible for the renewal, restoration, reactivation, or reinstatement of a license, upon the application for renewal, restoration, or reinstatement of the license. If the fees are not paid, the director may deny renewal, restoration, reactivation, or reinstatement of the license. The director may establish, increase, decrease, or repeal the fees when necessary pursuant to rules adopted under chapter 91.

There is created in the state treasury a special fund to be known as the compliance resolution fund to be expended by the director's designated representatives as provided by this subsection. Notwithstanding any law to the contrary, all revenues, fees, and fines collected by the department shall be deposited into the compliance resolution fund. Unencumbered balances existing on June 30, 1999, in the cable television fund under chapter 440G, the division of consumer advocacy fund under chapter 269, the financial institution examiners' revolving fund, section 412:2-109, and the special handling fund, section 415-128, shall be deposited into the compliance resolution fund. This provision shall not apply to the drivers education fund underwriters fee, section 431:10C-115, insurance premium taxes and revenues, revenues of the workers' compensation special compensation fund, section 386-151, the captive insurance administrative fund, section 431:19-101.8, the insurance commissioner's education and training fund, section 431:2-214, the medical malpractice patients' compensation fund as administered under section 5 of Act 232, Session Laws of Hawaii 1984, [~~the insurance examiners' revolving fund, section 431:2-307, the motor vehicle insurance administration revolving fund, section 431:10C-115.5,~~] and fees collected for deposit in the office of consumer protection restitution fund, section 487-14, the real estate appraisers fund, section 466K-1, the real estate recovery fund, section 467-16, the real estate education fund, section 467-19, the contractors recovery fund, section 444-26, the contractors education fund, section 444-29, and the condominium management education fund, section [444-29, and the public broadcasting revolving fund, section 314-13.] 514A-131. Any law to the contrary notwithstanding, the director may use the moneys in the fund to employ, without regard to chapters 76 and 77, hearings officers, investigators, attorneys, accountants, and other necessary personnel to implement this subsection. Any law to the contrary notwithstanding, the moneys in the fund shall be used to fund the operations of the department with the exception of costs related to the Hawaii public broadcasting authority. The moneys in the fund may be used to train personnel as the director deems necessary and for any other activity related to compliance resolution.

As used in this subsection, unless otherwise required by the context, "compliance resolution" means a determination of whether:

- (1) Any licensee or applicant under any chapter subject to the jurisdiction of the department of commerce and consumer affairs has complied with that chapter;
  - (2) Any person subject to chapter 485 has complied with that chapter;
  - (3) Any person submitting any filing required by chapter 514E or section 485-6(15) has complied with chapter 514E or section 485-6(15);
  - (4) Any person has complied with the prohibitions against unfair and deceptive acts or practices in trade or commerce; or
  - (5) Any person subject to chapter 467B has complied with that chapter;
- and includes work involved in or supporting the above functions, licensing, or registration of individuals or companies regulated by the department, consumer protection, and other activities of the department.

The director shall prepare and submit an annual report to the governor and the legislature on the use of the compliance resolution fund. The report shall describe expenditures made from the fund including non-payroll operating expenses.”

SECTION 3. Section 26-15, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department of land and natural resources shall be headed by an executive board to be known as the board of land and natural resources, except for matters relating to the state water code where the commission on water resource management shall have exclusive jurisdiction and final authority.

The board shall consist of [~~six~~] seven members, one from each land district and [~~two~~] three at large. The appointment, tenure, and removal of the members and the filling of vacancies on the board shall be as provided in section 26-34. The governor shall appoint the chairperson of the board from among the members thereof.

The board may delegate to the chairperson such duties, powers, and authority, or so much thereof, as may be lawful or proper for the performance of the functions vested in the board.

The chairperson of the board shall serve in a full-time capacity. The chairperson, in that capacity, shall perform those duties, and exercise those powers and authority, or so much thereof, as may be delegated by the board.”

SECTION 4. Section 36-27, Hawaii Revised Statutes, is amended to read as follows:

“**§36-27 Transfers from special funds for central service expenses.** Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- (4) State educational facilities improvement special fund;
- (5) Convention center capital and operations special fund under section 206X-10.5;
- (6) Special funds established by section 206E-6;
- (7) Housing loan program revenue bond special fund;
- (8) Housing project bond special fund;
- (9) Aloha Tower fund created by section 206J-17;
- (10) Domestic violence prevention special fund under section 321-1.3;
- (11) Spouse and child abuse special account under section 346-7.5;
- (12) Spouse and child abuse special account under section 601-3.6;
- (13) Funds of the employees’ retirement system created by section 88-109;
- (14) Unemployment compensation fund established under section 383-121;
- (15) Hawaii hurricane relief fund established under chapter 431P;
- (16) Hawaii health systems corporation special funds;
- (17) Boiler and elevator safety revolving fund established under section 397-5.5;
- (18) Tourism special fund established under section 201B-11;
- (19) Department of commerce and consumer affairs’ special funds;
- (20) Compliance resolution fund established under section 26-9;
- (21) Universal service fund established under chapter 269;

- (22) Integrated tax information management systems special fund under section 231-3.2;
- (23) Insurance regulation fund under section 431:2-215;
- (24) Hawaii tobacco settlement special fund under section 328L-2;
- (25) Emergency and budget [~~and~~] reserve fund under section 328L-3;
- (26) Probation services special fund under section 706-649;
- (27) High technology special fund under section 206M-15.5;
- (28) Public schools special fees and charges fund under section 302A-1130(f);
- (29) Cigarette tax stamp enforcement special fund established by section 28-14;
- (30) Cigarette tax stamp administrative special fund established by section 245-41.5; and
- (31) Tobacco enforcement special fund established by section 28-15;

shall deduct five per cent of all receipts of all other special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year.”

SECTION 5. Section 134-16, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) This section shall not apply to law enforcement officers of county police and sheriff departments of this State, or vendors providing electric guns to those entities; provided that electric guns shall at all times remain in the custody and control of the county [~~]police[~~] or sheriff departments.”

SECTION 6. Section 171-31.5, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) The requirement of public notice and public auction pursuant to subsections (c) and (d) shall not apply when the value of the [~~property~~] abandoned or seized property is less than \$1,000. In that event, the property may be sold by negotiation, disposed of or sold as junk, kept by the department, or donated to any other government agency or a charitable organization.”

SECTION 7. Section 205A-64, Hawaii Revised Statutes, is amended to read as follows:

“~~[§205A-64]~~ **Public participation.** The lead agency and the [~~]public advisory body[~~] shall involve citizens and interested groups and organizations in the updating and implementation of the plan.”

SECTION 8. Chapter 219, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) of section 219-5, Hawaii Revised Statutes, to read:

“(a) The department shall have the necessary powers to carry out the purposes of this chapter, including the following:

- (1) Prescribe the qualifications for eligibility of applicants for loans;

- (2) Establish preferences and priorities in determining eligibility for loans and loan repayment requirements;
  - (3) Establish the conditions, consistent with the purpose of this chapter, for the granting or for the continuance of a grant of a loan;
  - (4) Provide for inspection at reasonable hours of the plant facilities, books, and records of an enterprise that has applied for or has been granted a loan and require the submission of progress and final reports;
  - (5) Make loans for aquacultural products development, such as financing of plant construction, conversion, expansion, the acquisition of land for expansion, the acquisition of equipment, machinery, supplies, or materials or for the supplying of working capital, consistent with section 219-6;
  - (6) Secure loans by duly recorded first mortgages upon the following property within the State:
    - (A) Fee simple farm land;
    - (B) Leaseholds of farm land where the lease has an unexpired term at least two years longer than the term of the loan;
    - (C) Aquaculture products;
    - (D) Other chattels;
    - (E) A second mortgage when any prior mortgage does not contain provisions that might jeopardize the security position of the department or the borrower's ability to repay; and
    - (F) Written agreements, such as assignments of income;
  - (7) Administer the Hawaii aquaculture loan revolving fund and deposit into the fund all moneys received on account of principal;
  - (8) Include in its budget for subsequent fiscal periods amounts necessary to effectuate the purposes of this chapter;
  - (9) Insure loans made to qualified [aquaculturists] by private lenders under sections 219-7 and 219-8; provided that at no time shall the aggregate amount of the State's liability, contingent or otherwise, on these loans exceed \$1,000,000;
  - (10) Participate in loans made to qualified [aquaculturists] by private lenders under section 219-8;
  - (11) Make direct loans to qualified [aquaculturists] as provided under section 219-9;
  - (12) Establish interest rates chargeable by the State for direct loans and by private lenders for insured and participation loans; and
  - (13) Maintain a proper reserve in the aquaculture loan revolving fund to guarantee payment of loans insured under sections 219-7 and 219-8."
2. By amending section 219-6, Hawaii Revised Statutes, to read:

**“§219-6 Loan; limitation and terms.** Loans made under this chapter shall be for the purposes and in accordance with the terms specified in classes “A”, “B”, “C”, and “D” in paragraph (1), (2), (3), and (4) following and shall be made only to applicants who meet the eligibility requirements specified therein:

- (1) Class A: Aquaculture farm ownership and improvement loans. To provide for:
  - (A) The purchase or improvement of aquaculture farm land and waters;
  - (B) The purchase, construction, or improvement of adequate aquaculture farm dwellings, and other essential aquaculture farm facilities; and
  - (C) The liquidation of indebtedness incurred for any of the foregoing purposes.

Such loans shall be for an amount not to exceed \$400,000 and for a term not to exceed forty years. To be eligible the applicant shall:

- (i) Derive, or present an acceptable plan to derive, a major portion of the applicant's income from and devote, or intend to devote, most of the applicant's time to aquaculture farming operations; and
  - (ii) Have or be able to obtain the operating capital, including fishstock and equipment, needed to successfully operate the applicant's aquaculture farm;
- (2) Class B: Aquaculture operating loans. To carry on and improve an aquaculture operation, including:
- (A) The purchase of aquaculture equipment and fishstock;
  - (B) The payment of production and marketing expenses including materials, labor, and services;
  - (C) The payment of living expenses; and
  - (D) The liquidation of indebtedness incurred for any of the foregoing purposes.

Such loans shall be for an amount not to exceed \$400,000 and for a term not to exceed ten years. To be eligible, an applicant shall derive or present an acceptable plan to derive a major portion of the applicant's income from and devote, or intend to devote, most of the applicant's time to aquaculture operations;

- (3) Class C: Aquaculture cooperative and corporation loans. To provide credit to [aquaculturists'] cooperative associations and corporations engaged in marketing, purchasing, and processing, and providing farm business services, including:
- (A) Facility loans to purchase or improve land, building, and equipment for an amount not to exceed \$500,000 and a term not to exceed twenty years; and
  - (B) Operating loans to finance inventories of supplies, warehousing, and shipping commodities, extension of consumer credit to justified farmer-members, and other normal operating expenses for an amount not to exceed \$300,000 and a term not to exceed seven years.

To be eligible, a cooperative or corporation shall have at least seventy-five per cent of its board of directors and seventy-five per cent of its membership as shareholders who meet the eligibility requirements prescribed by the board and who devote most of their time to aquaculture operations; and

- (4) Class D: Emergency loans. To provide relief and rehabilitation to qualified [aquaculturists] without limit as to purpose:
- (A) In areas stricken by extraordinary rainstorms, windstorms, droughts, tidal waves, earthquakes, volcanic eruptions, and other natural catastrophes;
  - (B) On farms stricken by aquatic diseases;
  - (C) On farms seriously affected by prolonged shipping and dock strikes;
  - (D) During economic emergencies such as those caused by overproduction and excessive imports; and
  - (E) During other emergencies as determined by the board.

The maximum amounts and period for the loans shall be determined by the board; provided that the board shall require that any settlement or moneys received by qualified [aquaculturists] as a result of an

emergency declared under this section shall first be applied to the repayment of an emergency loan made under this chapter.”

SECTION 9. Section 235-102.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Notwithstanding any law to the contrary, any individual whose state income tax refund for any taxable year is \$2 or more may designate \$2 of the refund to be deposited into the ~~the~~ school-level minor repairs and maintenance special fund established by section 302A-1504.5, when submitting a state income tax return to the department of taxation. In the case of a joint return of a husband and wife having a state income tax refund of \$4 or more, each spouse may designate that \$2 be deposited into the special fund. The director of taxation shall revise the individual state income tax return form to allow the designation of contributions to the special fund on the face of the tax return and immediately above the signature lines. If no designation was made on the original tax return when filed, a designation may be made by the individual on an amended return filed within twenty months and ten days after the due date for the original return for such taxable year. A designation once made, whether by an original or amended return, may not be revoked.”

SECTION 10. Section 264-101, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For the purposes of this section, “highway” means the entire width, including the ~~beam-and~~ berm or shoulder of a public highway as defined in section 264-1.”

SECTION 11. Section 266-19.5, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) For the purposes of this ~~section~~:

“Capital advancement ~~contract~~” means an agreement between the department of transportation and a private party whereby the private party agrees to furnish capital, labor, or materials for a public improvement to or construction of a state harbor, commercial harbor, roadstead, or other waterfront improvement belonging to or controlled by the State and in return for which the private party may be reimbursed in a manner to be determined by the department.

“Total value” includes any contract extension, project redesign, add-ons, or any other occurrence, act, or material cost that may increase the cost of the contracted project.”

SECTION 12. Section 281-31, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Class 2. Restaurant licenses.

(1) A license under this class shall authorize the licensee to sell liquors specified in this subsection for consumption on the premises; provided that a restaurant licensee, with commission approval, may provide off-premises catering; provided further that the catering activity shall be directly related to the licensee’s operation as a restaurant. A licensee under this class shall be issued a license according to the category of establishment the licensee owns or operates. The categories of establishment shall be as follows:

~~(1)~~ (A) A standard bar; or

~~(2)~~ (B) A premises in which live entertainment or recorded music is provided. Facilities for dancing by the patrons may be permitted as provided by commission rules.

- (2) If a licensee under class 2 desires to change the category of establishment the licensee owns or operates, the licensee shall apply for a new license applicable to the category of the licensee's establishment.
- (3) For each category of class 2 licenses there shall be the following kinds:
- [~~(1)~~] (A) General (includes all liquors except alcohol);
- [~~(2)~~] (B) Beer and wine; and
- [~~(3)~~] (C) Beer.

Any licensee holding a different class of license on June 19, 1990, and who would otherwise come within this class of license shall not be required to apply for a new license."

SECTION 13. Section 286-104, Hawaii Revised Statutes, is amended to read as follows:

**"§286-104 What persons shall not be licensed.** The examiner of drivers shall not issue any license hereunder:

- (1) To any person whose license has been suspended by a court of competent jurisdiction during the suspension period; nor to any person whose license has been revoked until the expiration of one year after the date of the revocation, or until the expiration of the period of revocation specified by law, whichever is greater; nor to any person who, while unlicensed, has within two years been convicted of operating a vehicle under the influence of an intoxicant or, prior to [H]January 1, 2002[H], of driving under the influence of alcohol or drugs;
- (2) To any person who is required by this part to take an examination, unless such person has successfully passed the examination;
- (3) To any person who is required under the motor vehicle financial responsibility laws of this State to deposit proof of financial responsibility and who has not deposited such proof;
- (4) To any person when the examiner of drivers has good cause to believe that such person by reason of physical or mental disability would not be able to operate a motor vehicle with safety upon the highways;
- (5) To any person who is under eighteen years of age; provided that a person who is fifteen years and six months of age may be granted an instruction permit; and provided further that a person who is sixteen to seventeen years of age may be granted a license upon satisfying the requirements of sections 286-108 and 286-109, which license shall be valid for four years and may be suspended or revoked by a judge having jurisdiction over the holder of the license. Upon revocation of the license, the person shall not be eligible to operate a motor vehicle on the highway until the person is eighteen years of age and has again satisfied the requirements of sections 286-108 and 286-109; or
- (6) To any person who is not in compliance with section 286-102.5.

Any person denied a license under this or any other section of this part shall have a right of appeal as provided in section 286-129."

SECTION 14. Section 291-1, Hawaii Revised Statutes, is amended by amending the definition of "public street, road, or highway" to read as follows:

"Public street, road, or highway" includes the entire width, including [~~beam and~~] berm or shoulder, of every road, alley, street, way, lane, trail, highway, bikeway, bridge, when any part thereof is open for use by the public, including any bicycle lane, bicycle path, bikeway, controlled-access highway, laned roadway, roadway, or street, as defined in section 291C-1, and any public highway, as defined in section 264-1."



SECTION 15. Section 291-51, Hawaii Revised Statutes, is amended by amending the definition of “sign designating the parking space as reserved for persons with disabilities” to read as follows:

““Sign designating the parking [{}space{}] as reserved for persons with disabilities” means a sign which contains:

- (1) The words, “Reserved Parking”;
- (2) The international symbol of access;
- (3) Words indicating that the space is reserved for parking by persons with disabilities who have valid placards or special license plates; and
- (4) The maximum fine for parking illegally in the space.”

SECTION 16. Section 302A-101, Hawaii Revised Statutes, is amended by amending the definition of “new century charter schools” to read as follows:

““New century charter schools” means the implementation of alternative frameworks with regard to curriculum, facilities management, instructional approach, length of the school day, week, or year, and personnel management, formed under section 302A-1182 [~~or 302A-1183~~].”

SECTION 17. Section 302A-410, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) Beginning with the 1997-1998 school year, this section shall be interpreted as though the term “certification” read “licensing” [~~or “credentialing”~~], as the [~~latter terms are~~] term is used in part III, subpart D, and as circumstances require.”

SECTION 18. Section 302A-802, Hawaii Revised Statutes, is amended to read as follows:

**“§302A-802 Licensing [~~and credentialing~~] standards.** (a) The board shall establish licensing [~~and credentialing~~] standards that govern teacher licensing [~~and credentialing~~] in Hawaii. Licensing [~~and credentialing~~] standards established by the board shall be adopted as rules under chapter 91 unless otherwise specified in this subpart.

(b) In the development of its standards, the board shall consider the existing teacher applicant pool that is available in the State and the level of the qualification of these applicants, as well as the nature and availability of existing preservice higher education teacher training programs. The board shall also consider alternative routes to licensing, such as national teacher examinations[~~, and credentials~~] that certify competency in subject areas or programs taught in the public schools.”

SECTION 19. Section 302A-803, Hawaii Revised Statutes, is amended to read as follows:

**“§302A-803 Powers and duties of the board.** In addition to establishing standards for the issuance and renewal of licenses [~~and credentials~~] and any other powers and duties authorized by law, the board’s powers shall also include:

- (1) Setting and administering its own budget;
- (2) Adopting, amending, repealing, or suspending the policies, standards, or rules of the board in accordance with chapter 91;
- (3) Receiving grants or donations from private foundations, and state and federal funds;
- (4) Submitting an annual report to the governor and the legislature on the board’s operations and from the 2007-2008 school year, submitting a summary report every five years of the board’s accomplishment of

- objectives, efforts to improve or maintain teacher quality, and efforts to keep its operations responsive and efficient;
- (5) Conducting a cyclical review of standards and suggesting revisions for their improvement;
  - (6) Establishing licensing [~~and credentialing~~] fees in accordance with chapter 91, including the collection of fees by means of mandatory payroll deductions, which shall subsequently be deposited into the state treasury and credited to the Hawaii teacher standards board revolving fund;
  - (7) Establishing penalties in accordance with chapter 91;
  - (8) Granting extensions of credentials on a case-by-case basis pursuant to section 302A-805; provided that this paragraph shall be repealed on June 30, 2002;
  - (9) Issuing, renewing, revoking, suspending, and reinstating licenses [~~and credentials~~];
  - (10) Reviewing reports from the department concerning the number of individuals hired on an emergency basis;
  - (11) Applying licensing [~~and credentialing~~] standards on a case-by-case basis and conducting licensing [~~and credentialing~~] evaluations;
  - (12) Preparing and disseminating teacher licensing information to schools and operational personnel;
  - (13) Approving teacher preparation programs;
  - (14) Administering reciprocity agreements with other states relative to licensing;
  - (15) Conducting research and development on teacher licensure systems, beginning teacher programs, the assessment of teaching skills, and other related topics;
  - (16) Participating in efforts relating to teacher quality issues, conducting professional development related to the board's standards, and promotion of high teacher standards and accomplished teaching; and
  - (17) Adopting applicable rules and procedures."

SECTION 20. Section 302A-807, Hawaii Revised Statutes, is amended to read as follows:

**“§302A-807 Refusal, suspension, revocation, and reinstatement of licenses [~~and credentials~~].** (a) The board shall serve as the final adjudicator for appeals relating to licensing [~~and credentialing~~], including the issuance or nonissuance of licenses [~~and credentials~~], and the suspension, nonrenewal, and revocation of licenses [~~and credentials~~].

(b) The board shall establish procedures for the conduct of proceedings for the consideration of requests filed with the board. In every case to revoke or suspend a license [~~or credential~~], the board shall give the person concerned written notice that a request has been filed with the board. The board shall conduct a hearing in conformity with chapter 91, and shall provide for confidentiality of the proceedings to protect the parties. In all proceedings before it, the board may administer oaths, compel the attendance of witnesses and production of documentary evidence, and examine witnesses. In case of disobedience by any person to any order of the board or to any subpoena issued by the board, or the refusal of any witness to testify to any matter that the person may be questioned lawfully, any circuit judge, on application of the board or a member thereof, shall compel obedience in the case of disobedience of the requirements of a subpoena issued by a circuit court or a refusal to testify.

(c) Any applicant who has been refused a license [~~or credential~~], or any licensee [~~or credential holder~~] whose license [~~or credential~~] has been suspended or

revoked, shall have the right to appeal the board's decision to the circuit court of the circuit in which the applicant[,] or licensee[, or credential holder] resides in the manner provided in chapter 91; provided that out-of-state resident applicants shall file their appeals in the first circuit court.

(d) Upon revocation of a license [~~or credential~~], the board may disclose the name, birthdate, social security number, and any other pertinent information about the former holder of the license [~~or credential~~]:

- (1) To the department; and
- (2) For the purpose of exchanging information under chapter 315 with other national or state teacher certification agencies about school personnel who have had licenses [~~or credentials~~] revoked."

SECTION 21. Section 302A-1187, Hawaii Revised Statutes, is amended to read as follows:

**“[H]§302A-1187[H] New century charter schools; administrative supervision.** Whenever any new century charter school is established under section 302A-1182 [~~or 302A-1183~~], the following provisions shall apply except as otherwise specifically provided by this chapter:

- (1) Following consultation with the new century charter school, the board shall represent the new century charter school in communications with the governor and with the legislature;
- (2) The financial requirements for state funds of the new century charter school shall be submitted through the board and included in the budget for the department;
- (3) The approval of all policies and rules adopted by the new century charter school shall be preceded by an open public meeting and shall not be subject to chapter 91;
- (4) The employment, appointment, promotion, transfer, demotion, discharge, and job descriptions of all officers and employees of or under the jurisdiction of the new century charter school shall be determined by the new century charter school and applicable personnel laws and collective bargaining agreements;
- (5) Except as set forth in this section, the board or the superintendent of education shall not have the power to supervise or control the new century charter school in the exercise of its functions, duties, and powers; and
- (6) Local school boards may enter into an annual business contract for centralized services to be provided by the department prior to the beginning of each school year.”

SECTION 22. Section 302A-1504, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department shall establish two school-level minor repairs and maintenance accounts for the use of each public school, which shall not exceed \$25,000 each per school. The first account shall be comprised of general funds appropriated to the department and the second account shall be comprised of funds appropriated out of the [H]school-level minor repairs and maintenance special fund[H] pursuant to section 302A-1504.5 for school-level minor repairs and maintenance and shall not be used for any other purpose, nor shall any other funds be deposited into the accounts. The department shall allocate funds based on the number of students at the school multiplied by a factor which recognizes the age and condition of the school.”

SECTION 23. Section 302A-1504.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§302A-1504.5 School-level minor repairs and maintenance special fund.]]~~ There is established within the state treasury a special fund to be known as the ~~[[school-level minor repairs and maintenance special fund]]~~, into which shall be deposited all moneys collected pursuant to section 235-102.5(b), and any other moneys received by the department in the form of grants and donations for school-level minor repairs and maintenance. The special fund shall be administered by the department and used to fund school-level minor repairs and maintenance.”

SECTION 24. Section 328L-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established in the state treasury the emergency and budget ~~[and]~~ reserve fund which shall be a special fund administered by the director of finance, into which shall be deposited:

- (1) ~~[[Forty]]~~ Twenty-four and one-half per cent of the moneys received from the tobacco settlement moneys under section 328L-2(b)(1);
- (2) Appropriations made by the legislature to the fund.”

SECTION 25. Section 651-1, Hawaii Revised Statutes, is amended to read as follows:

“**§651-1 General provisions.** This part shall apply to circuit and district courts. A judge of any court of record may make any order at chambers which may by the provisions of this part be made by the court in term time. When the proceedings are before a district judge, the judge shall be regarded as the clerk of the court for all purposes contemplated herein. The phrase “police officer,” as used in this part, means ~~[a licensed process server, or]~~ the director of public safety or the director’s duly authorized representative, ~~[and] any chief of police or subordinate police officer[-],~~ or a person authorized by the rules of court. Nothing in this part shall be construed to permit a district judge to issue a writ of attachment to be served out of the circuit in which the judge’s court is situated, or to permit an attachment of real estate, or any interest therein, under a writ issued by a district court judge.”

SECTION 26. Section 654-2, Hawaii Revised Statutes, is amended to read as follows:

“**§654-2 Bond.** When the plaintiff desires the immediate delivery of the property, the plaintiff shall execute a bond to the defendant in possession of the property, and to all persons having an interest in the property, of such amount and with such sureties as are approved by the court, conditioned that the plaintiff will prosecute the plaintiff’s action to judgment without delay, and deliver the property to the defendant in possession or any other person, if such delivery is adjudged, and pay all costs and damages that may be adjudged against the plaintiff. Upon the filing of the verified complaint or affidavit with the bond and a motion for immediate consideration of the matter, the court shall forthwith inquire into the matter, ex parte or otherwise, as in its discretion it determines. If thereupon the court finds that a prima facie claim for relief has been established, it shall issue an order directed to the sheriff, or the sheriff’s deputy, or the chief of police, or an authorized police officer of any county, or a ~~[[licensed process server,]]~~ person authorized by the rules of court, to take the property therein described and deliver the same to the plaintiff.

Copies of the verified ~~[[complaint]]~~ or affidavit, and, if a bond for immediate seizure has been filed, of the bond, and, if an order for the taking has been issued

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on an ex parte hearing, of the order, shall forthwith be served upon the defendant in possession and each person having or claiming a possessory interest in the property, in the same manner as is provided for service of summons unless the party to be served has appeared in the action, in which case service may be made in the same manner as is provided for service of papers other than the summons. In a proper case, either before or after issuance of an order for the taking, the required service may be combined with the publication of the summons, in which event the giving of notice of the substance of the proceeding shall be sufficient.

Upon the application of any party, the proceeding shall be advanced and assigned for hearing at the earliest possible date.”

SECTION 27. Section 658A-4, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) A party to an agreement to arbitrate or arbitration proceeding shall not waive, or the parties shall not vary the effect of, the requirements of this section or section 658A-3(a) or (c), 658A-7, 658A-14, 658A-18, 658A-20(d) or (e), 658A-22, 658A-23, 658A-24, 658A-25(a) or (b), or 658A-29[~~-, 658A-30, 658A-31, or 658A-32~~].”

SECTION 28. Act 29, Session Laws of Hawaii 2001, is amended by amending section 4 to read as follows:

“SECTION 4. This Act shall take effect on April 1, 2002[-]; provided that amendments made to section 346-59 by this Act shall not be repealed when that section is reenacted on June 30, 2004, pursuant to section 9 of Act 226, Session Laws of Hawaii 2000.”

SECTION 29. Act 229, Session Laws of Hawaii 2001, is amended by amending section 5 to read as follows:

“SECTION 5. This Act shall take effect upon approval and shall be repealed on January 1, 2003[-]; provided that sections 467E-1 and 467E-13, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day before the approval of this Act.”

SECTION 30. Act 265, Session Laws of Hawaii 2001, is amended by amending section 4 to read as follows:

“SECTION 4. Sections 92-17(f), 171-6(9), 171-17[(e) and (d)], 182-3(b), 421H-6(a), 431:10C-213(c), 431:10C-213.5(d), 481I-4(f), 514A-121(a), 514A-127(e), 516-26, 516-66, 516-70(b), and 712A-16(1)(b)(iii), Hawaii Revised Statutes, are amended by substituting the designation of the new chapter added to the Hawaii Revised Statutes by section 1 of this Act wherever references to “chapter 658” appear, as the context requires.”

SECTION 31. Act 265, Session Laws of Hawaii 2001, is amended by amending section 8 to read as follows:

“SECTION 8. This Act shall take effect on July 1, 2002[-]; provided that amendments made to section 712A-16(1)(b)(iii) by this Act shall not be repealed when that section is reenacted on June 30, 2006, pursuant to section 20 of Act 249, Session Laws of Hawaii 2000.”

SECTION 32. Act 312, Session Laws of Hawaii 2001, is amended by amending section 13 to read as follows:

“SECTION 13. Effective July 1, 2002, all references to “credential”, “credentials” or “credentialing” in sections 302A-410, [~~302A-610,~~] 302A-802,

302A-803, and 302A-807, and the phrase “teacher’s or” in section 302A-616(a)(4) shall be deleted.”

SECTION 33. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 34. This Act shall take effect upon its approval; provided that:

- (1) The amendments made to section 36-27 by section 4 of this Act shall not be repealed when that section is reenacted on July 31, 2003, pursuant to section 9 of Act 142, Session Laws of Hawaii 1998;
- (2) Sections 10, 13, and 14 shall take effect retroactive to January 1, 2002;
- (3) Sections 17, 18, 19, 20, and 24 shall take effect on July 1, 2002;
- (4) Section 28 shall take effect retroactive to April 1, 2002;
- (5) Section 29 shall take effect retroactive to June 13, 2001;
- (6) Sections 30 and 31 shall take effect on July 1, 2002; and
- (7) Section 32 shall take effect retroactive to July 1, 2001.

(Approved April 12, 2002.)