

## ACT 178

S.B. NO. 2545

A Bill for an Act Relating to Education.

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

SECTION 1. The legislature finds that the period from birth to age five is the most crucial period of learning in a child's life. This is when over eighty-five per cent of a person's brain development takes place. Early life experiences lay the groundwork for a child's lifelong learning and behavior. The legislature further finds that high quality early learning programs that are affordable and accessible for all children are critically important for ensuring the success of Hawaii's keiki.

In addition, the significant, long-term benefits realized through investments in high-quality, early learning systems have been established through decades of research. Many studies show the importance of early childhood education. For example, a federal Department of Education study reports that children enrolled in kindergarten increase their knowledge and skills regardless of development prior to enrollment. Kindergarteners are expected to leave kindergarten knowing how to read and write. First graders who did not go to kindergarten are typically developmentally behind their peers in academic and social development and are more likely to fail a grade level in elementary school.

The purpose of this Act is, among other things, to:

- (1) Establish the executive office on early learning;
- (2) Establish the early learning advisory board to replace the early learning council;
- (3) Repeal junior kindergarten programs at the end of the 2013-2014 school year;
- (4) Starting with the 2014-2015 school year, require students to be at least five years of age on July 31 of the school year in order to attend kindergarten;
- (5) Make an appropriation to the executive office on early learning; and
- (6) Require an implementation plan and projected financials in order to ensure a seamless transition from the junior kindergarten program to the keiki first steps program in the 2014-2015 school year.

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

**“§302L-A Executive office on early learning; director; general functions, duties, and powers.** (a) There is established an executive office on early learning that shall be temporarily placed within the office of the governor; provided that on July 1, 2015, the executive office on early learning shall be permanently established within the department of education for administrative purposes only.

(b) The head of the executive office on early learning shall be known as the director of the executive office on early learning, hereinafter referred to as director. The director shall:

- (1) Be appointed by the governor;
- (2) Have professional training in the field of social work, education, or other related fields;
- (3) Have direct experience in programs or services related to early education;
- (4) Have recent experience in a supervisory, consultative, or administrative position;
- (5) Be paid a salary set by the governor that shall not exceed ninety per cent of the salary of the director of human resources development; and
- (6) Be included in any benefit program generally applicable to the officers and employees of the State.

(c) The director shall be responsible for:

- (1) Serving as the principal officer in state government responsible for the performance, development, and control of programs, policies, and activities related to a public-private comprehensive early childhood system for children, from prenatal care to entrance into kindergarten;
- (2) Overseeing, supervising, and directing the performance of the director's subordinates in various activities, including planning, evaluation, and coordination of early learning programs;
- (3) Administering funds allocated for the office and applying for, receiving, and disbursing grants and donations from all sources for early learning programs and services;
- (4) Assessing the policies and practices of other agencies impacting early learning and conducting advocacy efforts for early learning;
- (5) Advising agencies on new legislation, programs, and policy initiatives relating to early learning;
- (6) Employing and retaining staff as may be necessary for the purposes of this section; and
- (7) Contracting for services that may be necessary for the purposes of this section, including through master contracts with other state agencies receiving federal and state funds for programs and services for early learning, and purchase of service agreements with appropriate agencies.

(d) In developing the early learning system established pursuant to section 302L-2, the office, among other things, shall:

- (1) Establish policies and procedures governing its operations;
- (2) Develop a plan, with goals and objectives, for the early learning system, including the development, execution, and monitoring of a phased implementation plan;
- (3) Coordinate, improve, and expand upon existing early learning programs and services for children from prenatal care until the time they enter kindergarten;
- (4) Establish policies and procedures to include existing early learning programs and services;
- (5) Establish additional early learning programs and services, including public and private partnerships, where applicable;
- (6) Establish policies and procedures governing the inclusion of children with special needs;

- (7) Develop incentives to enhance the quality of programs, services, and educational professionals within the early learning system;
  - (8) Coordinate efforts to develop a highly-qualified, stable, and diverse workforce;
  - (9) Develop and implement methods of maximizing the engagement of families, caregivers, and teachers in the early learning system;
  - (10) Develop an effective, comprehensive, and integrated system to provide training and technical support for programs and services within the early learning system;
  - (11) Develop standards of accountability to ensure that high-quality early learning experiences are provided by programs and services of the early learning system;
  - (12) Collect, interpret, and release data relating to early learning in the State;
  - (13) Recommend the appropriate proportion of state funds that should be distributed to programs and services across the early learning system, to ensure the most effective and efficient allocation of fiscal resources within the early learning system;
  - (14) Promote awareness of early learning opportunities to families and the general public; and
  - (15) Consult with community groups, including statewide organizations that are involved in early learning professional development, policy and advocacy, and early childhood programs.
- (e) The Hawaii head start state collaboration office shall be transferred from the department of human services to the executive office on early learning.

**§302L-B Early learning advisory board.** (a) There is established an early learning advisory board, whose members shall be appointed by the governor pursuant to section 26-34. The advisory board shall be responsible for:

- (1) Advising the office on how best to meet the educational needs of children, from prenatal care to entry into kindergarten;
  - (2) Providing recommendations to the office on improving the quality, availability, and coordination of early childhood care and education programs;
  - (3) Promoting collaboration across agencies and stakeholders serving young children; and
  - (4) Being an independent voice for children's health, safety, development, and learning.
- (b) The advisory board shall consist of the following voting members:
- (1) A representative of center-based program providers or the representative's designee;
  - (2) A representative of family child care program providers;
  - (3) A representative of family-child interaction learning program providers;
  - (4) A representative of philanthropic organizations that support early learning or the representative's designee;
  - (5) A representative from a head start provider agency;
  - (6) A representative from the Hawaii Early Intervention Coordinating Council;
  - (7) A parent representative;
  - (8) A representative from the Hawaii chapter of the American Academy of Pediatrics;
  - (9) A representative of home-visiting program providers;

- (10) A representative of Hawaiian medium early learning providers; and
- (11) Two representatives of the Hawaii Council of Mayors or each representative's respective designee.

The superintendent of education, director of human services, director of health, and president of the University of Hawaii shall serve as ex officio, voting members of the advisory board.

The advisory board shall invite the director of the Hawaii head start state collaboration office, the chief executive officer of Kamehameha Schools, and the executive director of the Hawaii Association of Independent Schools, or their designees, to serve as voting members of the advisory board.

(c) Except for the superintendent of education, directors of state departments, president of the University of Hawaii, director of the Hawaii head start state collaboration office, chief executive officer of Kamehameha Schools, and the executive director of the Hawaii Association of Independent Schools, or their designees, the members of the advisory board shall serve staggered terms as follows:

- (1) The representative of center-based program providers shall serve a two-year term;
- (2) The representative of family child care program providers shall serve a three-year term;
- (3) The representative of family-child interaction learning program providers shall serve a three-year term;
- (4) The representative of philanthropic organizations that support early learning shall serve a two-year term;
- (5) The representative from a head start provider agency shall serve a three-year term;
- (6) The representative from the Hawaii Early Intervention Coordinating Council shall serve a three-year term;
- (7) The parent representative shall serve a two-year term;
- (8) The representative from the Hawaii chapter of the American Academy of Pediatrics shall serve a two-year term;
- (9) The representative of home-visiting program providers shall serve a three-year term;
- (10) The representative of Hawaiian medium early learning providers shall serve a two-year term; and
- (11) Of the two representatives of the Hawaii Council of Mayors, one shall serve a two-year term, and the other shall serve a three-year term as determined by the Hawaii Council of Mayors.

(d) The advisory board shall select a chairperson by a majority vote of its members; provided that the chairperson shall be a representative from the private sector. A majority of the members serving on the advisory board shall constitute a quorum to conduct business. The concurrence of the majority of the members serving on the advisory board shall be necessary to make any action of the advisory board valid.

(e) The advisory board may form workgroups and subcommittees, including with individuals who are not advisory board members, to:

- (1) Obtain resource information from early learning professionals and other individuals as deemed necessary by the advisory board;
- (2) Make recommendations to the advisory board; and
- (3) Perform other functions as deemed necessary by the advisory board to fulfill its duties and responsibilities.

Two or more advisory board members, but less than a quorum, may discuss matters relating to official advisory board business in the course of their

participation in a workgroup or subcommittee, and such discussion shall be a permitted interaction as provided for in section 92-2.5.

(f) The advisory board may testify before the legislature on any matter related to its duties and responsibilities.

(g) Members of the advisory board shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

**§302L-C Early childhood education facilities; pre-plus.** (a) There is established the pre-plus program within the office to expand access to affordable and high-quality early childhood education for children from low-income families who are not otherwise eligible for kindergarten, by allowing preschool programs to be established on public school campuses through public-private partnerships.

(b) The office, the department of education, and the department of human services shall work collaboratively to develop suitable pre-plus classrooms on department of education campuses statewide, including conversion charter school campuses. The executive office on early learning, with the department of education and department of human services, shall coordinate site selection for additional pre-plus programs at public school sites, with priority given to public school sites that serve at-risk children as defined in section 302L-1, including sites located in areas with limited access to early learning programs and services.”

SECTION 3. Section 302A-411, Hawaii Revised Statutes, is amended to read as follows:

**“§302A-411 [~~Junior kindergarten and kindergarten~~] Kindergarten program; establishment; attendance.** (a) The department shall establish and maintain [~~junior kindergartens and~~] kindergartens with a program of instruction as a part of the public school system; provided that:

- (1) Attendance shall not be mandatory; and
- (2) Charter schools shall be excluded from mandatory participation in the program.

(b) [~~The department shall establish a two-tier junior kindergarten and kindergarten program to support the range of developmental abilities of children in junior kindergarten and kindergarten. Schools shall not move students between junior kindergarten and kindergarten, except in cases where the movement is warranted and based on appropriate assessments determined by:~~

- (1) A qualified teacher with early childhood education background or experience; and
- (2) The formative and summative assessment of a student’s academic, physical, social, and emotional abilities,

provided that, beginning with the 2010-2011 school year, the department shall use successful assessment tools and protocols for determining a student’s initial placement and for decision making about a student’s movement between tiers and into grade one. Junior kindergarten students may graduate directly to grade one when promotion is based on appropriate assessments and other progress data collected over time.

(c) Beginning with the 2004-2005 school year, a child who will be at least five years of age on or before December 31 of the school year may attend a public school kindergarten. Beginning with the 2006-2007 school year, a child who will be at least five years of age on or before August 1 of the school year may attend a public school kindergarten. Beginning with the 2006-2007 school year, a

child who will be at least five years of age after August 1 and before January 1 of the school year may attend a public school junior kindergarten.] Beginning with the [2013-2014] 2014-2015 school year, a child who will be at least five years of age on [the first day of instruction] July 31 of the school year may attend a public school kindergarten.

~~[(d)]~~ (c) The department may accept gifts to establish and maintain [junior kindergartens and] kindergartens.”

SECTION 4. Section 302A-1151.5, Hawaii Revised Statutes, is amended to read as follows:

~~“[§302A-1151.5]~~ **Use of vacant public school facilities for pre-plus programs and by charter schools.** (a) When the department considers whether to close any particular public school, it shall simultaneously give reasonable consideration to making all or portions of the facilities of the public school available for [the]:

- (1) The exclusive occupancy and use by a charter school or a pre-plus program established pursuant to section 302L-C; or
- (2) The joint occupancy and use by the charter school or a pre-plus program and the department;

provided that the department may elect to use the facilities for the support of public education programs, with preference given to instructional uses over administrative uses.

(b) The department shall submit a notice of possible availability of a public school to the charter school review panel and the executive office on early learning as early as possible; provided that if a vacancy is established, a notice of vacancy shall be submitted to the charter school review panel and executive office on early learning no later than thirty days after the establishment of the vacancy.

(c) Pursuant to section 302B-3.6 and upon receipt of a notice pursuant to subsection (b), the charter school review panel shall solicit applications from charter schools interested in using and occupying all or portions of the facilities of the public school and submit a prioritized list of charter schools to the department for final determination of which charter school, if any, shall be authorized to use and occupy the public school facilities.

(d) Upon receipt of a notice pursuant to subsection (b), the executive office on early learning shall solicit applications from pre-plus programs interested in using and occupying all or portions of the facilities of the public school and submit a prioritized list of pre-plus programs to the department for final determination of which pre-plus program, if any, shall be authorized to use and occupy the public school facilities.

~~[(d)]~~ (e) Upon the selection of a charter school or pre-plus program to use a vacant school facility or portion of a school facility, the department and the charter school review panel or executive office on early learning, whichever is appropriate, shall enter into necessary agreements within ninety days of the selection to carry out the purposes of this section.

~~[(e)]~~ (f) After receipt [by the charter school review panel] of a notice pursuant to subsection (b), if the charter school review panel [does] or executive office on early learning does not provide a prioritized list of charter schools or pre-plus programs because no charter school or pre-plus program has requested to use the facilities of the public school, or if the department receives the prioritized [list] lists but determines that no charter school or pre-plus program on [the] either list is an appropriate candidate to occupy and use the facilities, the department shall give reasonable consideration to making all or portions of the

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facilities of the public school, if closed, available for occupancy and use for other educational purposes.

~~[(f)]~~ (g) The department shall adopt rules necessary to carry out the purposes of this section.

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

SECTION 5. Section 302L-1, Hawaii Revised Statutes, is amended as follows:

1. By adding two new definitions to read:

"Advisory board" means the early learning advisory board established pursuant to this chapter.

"Office" means the executive office on early learning established pursuant to this chapter."

2. By repealing the definition of "council":

~~["Council" means the early learning council established pursuant to this chapter."]~~

SECTION 6. Section 302L-3, Hawaii Revised Statutes, is repealed.

SECTION 7. Section 346-1.7, Hawaii Revised Statutes, is repealed.

SECTION 8. The executive office on early learning established pursuant to section 2 of this Act shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2013 on the status of an implementation plan for the development of the early learning system established pursuant to section 302L-2, Hawaii Revised Statutes. The report shall include a timeline of the implementation plan and any projected funding needs, with a focus on targeting four year old children.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$300,000 or so much thereof as may be necessary for fiscal year 2012-2013 to establish the executive office on early learning.

The sum appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 10. The members serving on the early learning council on the effective date of this Act shall serve as the initial members of the early learning advisory board established pursuant to section 2 and shall continue to serve as members of the early learning advisory board until their terms expire.

SECTION 11. Sections 302A-1506.5, 302L-2, 302L-4, and 302L-5, Hawaii Revised Statutes, are amended by substituting the term "executive office on early learning" wherever the term "early learning council" appears and by substituting the term "office" whenever the term "council" appears, as the context requires.

SECTION 12. Section 302L-3.5, Hawaii Revised Statutes, is amended by substituting the term "advisory board" wherever the term "council" appears, as the context requires.

**SECTION 13.** In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

**SECTION 14.** Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

**SECTION 15.** This Act shall take effect on July 1, 2012; provided that section 3 of this Act shall take effect on July 1, 2014.

(Approved June 28, 2012.)

**Note**

1. Edited pursuant to HRS §23G-16.5.