

## ACT 232

S.B. NO. 2288

A Bill for an Act Relating to Education.

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

SECTION 1. In 2012, the legislature passed Act 133, Session Laws of Hawaii 2012, which sought to add clarity to or resolve conflicting or inconsistent language among different sections of law and to amend or repeal various sections of chapter 302A, Hawaii Revised Statutes.

The purpose of this Act is to continue to amend or repeal various sections of chapter 302A, Hawaii Revised Statutes, that:

- (1) Have been accomplished and are no longer necessary;
- (2) Impede rather than assist the department of education in meeting its core mission;
- (3) Fall under the purview of the board of education, such as policy, staffing, and programmatic decisions;
- (4) Are covered by federal law and do not require codification in state law; or
- (5) Are covered by another section of the Hawaii Revised Statutes, administrative rules, or board of education policy.

SECTION 2. Section 36-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) 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 enterprise special fund under section 201B-8;
- (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) Funds of the employees' retirement system created by section 88-109;
- (11) Hawaii hurricane relief fund established under chapter 431P;
- (12) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- (13) Tourism special fund established under section 201B-11;
- (14) Universal service fund established under section 269-42;
- (15) Emergency and budget reserve fund under section 328L-3;
- (16) Public schools special fees and charges fund under section 302A-1130;
- (17) Sport fish special fund under section 187A-9.5;
- (18) Glass advance disposal fee established by section 342G-82;
- (19) Center for nursing special fund under section 304A-2163;
- (20) Passenger facility charge special fund established by section 261-5.5;
- (21) Court interpreting services revolving fund under section 607-1.5;
- (22) Hawaii cancer research special fund;
- (23) Community health centers special fund;
- (24) Emergency medical services special fund;
- (25) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- (26) Shared services technology special fund under section 27-43;
- (27) Automated victim information and notification system special fund established under section 353-136; ~~and~~
- ~~[(28)]~~ Deposit beverage container deposit special fund under section 342G-104~~;~~];
- (29) Hawaii 3R's school repair and maintenance fund under section 302A-1502.4; and
- (30) After-school plus program revolving fund under section 302A-1149.5.

shall deduct five per cent of all receipts of all 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 3. Section 36-32, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The department of education shall ~~submit an annual report to the legislature that shall include~~ annually post on the department's website information related to a financial statement of the special fund, the lease payments for schools account established under subsection (b), and the status of projects undertaken pursuant to this section, no later than twenty days prior to the convening of each regular session.”

SECTION 4. Section 36-36, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

~~“(e) The [superintendent of education shall submit an annual report to the legislature, which shall include] department shall annually post on its website information related to a financial statement of the account and the status of school repair and preventive maintenance projects undertaken pursuant to this section, no later than twenty days prior to the convening of each regular session. The department of education shall also post the following [reports electronically on the Internet] information on its website and update [them] the information quarterly:~~

- (1) Expenditures for school repair and preventive maintenance projects undertaken pursuant to this section, shall be posted within thirty days of each project’s completion; and
- (2) A list of each school’s repair and maintenance needs to be undertaken.”

SECTION 5. Section 302A-101, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

“Attend” or “attendance” means a student is physically present in school after enrollment.

“Enroll” or “enrollment” means a student has met all of the department’s requirements for entrance and is formally placed on a school’s roll.”

SECTION 6. Section 302A-101, Hawaii Revised Statutes, is amended by amending the definition of “charter schools” to read as follows:

~~“Charter schools” [means public schools holding charters to operate as charter schools under chapter [302D], including start-up and conversion charter schools, that have the flexibility to implement alternative frameworks with regard to curriculum, facilities management, instructional approach, length of the school day, week, or year, and personnel management.] has the same meaning as in section 302D-1.”~~

SECTION 7. Section 302A-102, Hawaii Revised Statutes, is amended to read as follows:

~~“[§302A-102] Smoking prohibited[; exception]. [(a)] All public schools within the State, from kindergarten through grade twelve, shall prohibit the use of tobacco at public schools or at public school functions.~~

~~[(b) The department shall provide affected public employees with breaks throughout the work day during which they may smoke at locations off-campus. The number and duration of such breaks shall be subject to collective bargaining.~~

~~(c) The department shall provide a smoking cessation program for public employees who are interested in participating; provided that issues relating to the costs of the program shall be subject to collective bargaining.~~

~~(d) This section shall not be subject to part II of chapter 328K.]”~~

SECTION 8. Section 302A-605, Hawaii Revised Statutes, is amended to read as follows:

“§302A-605 Principals and vice-principals. [(a)] Principals and vice-principals shall meet the department’s certification requirements [and shall have at least five years of appropriate school-level experience, including at least three years as a teacher, or equivalent experience, as determined by the department.

~~(b) Vice principals shall meet the department's certification requirements and shall have appropriate school-level or equivalent experience, as determined by the department.~~

~~(c) The department shall establish alternative routes to certification for principals and vice principals pursuant to rules adopted under chapter 91.~~

~~(d) For purposes of this section, "alternative routes to certification" has the same meaning as determined by United States Department of Education regulations for state applications for Race to the Top fund allocations under section 14001 of the federal American Recovery and Reinvestment Act of 2009, as amended]."~~

SECTION 9. Section 302A-1004, Hawaii Revised Statutes, is amended by amending subsections (b) and (c) to read as follows:

"(b) The department shall ~~[submit to the legislature, the governor, and the board of education at least twenty days prior to the convening of each regular legislative session a report of]~~ annually post on the department's website information on the specifics of the implementation of the comprehensive accountability system, as well as the fiscal requirements and legislative actions necessary to maintain and improve the accountability system.

(c) The department shall ~~[submit to the legislature and to the governor, at least twenty days prior to the convening of each regular session, an educational status report]~~ also annually post on its website information that includes but is not limited to the following:

- (1) Results of school-by-school assessments of educational outcomes;
- (2) Summaries of each school's standards implementation design;
- (3) Summary descriptions of the demographic makeup of the schools, with indications of the range of these conditions among schools within Hawaii;
- (4) Comparisons of conditions affecting Hawaii's schools with the conditions of schools in other states;
- (5) Other such assessments as may be deemed appropriate by the board; and
- (6) Any other reports required by this section."

SECTION 10. Section 302A-1145, Hawaii Revised Statutes, is amended to read as follows:

~~["§302A-1145"]~~ **Transfer to another school.** No school shall receive any child under eighteen years of age, who has attended another school of the same class in the same ~~[district,] complex area~~, unless the child produces to the school to be ~~[entered,] enrolled~~, a certificate of release of the school last attended by the child. If the child applies to attend a school of higher grade, a certificate of proficiency shall be required or a lawful excuse for its absence. The children from one ~~[district] complex area~~ desiring to enter a school in another ~~[district] complex area~~ may be received or ~~[admitted] enrolled~~ upon producing a certificate of release from the school last attended in the other ~~[district,] complex area~~."

SECTION 11. Section 302A-1154, Hawaii Revised Statutes, is amended as follows:

1. By amending the title to read:

**"§302A-1154 Immunization upon [entering] attending school; tuberculosis clearance."**

2. By amending subsection (b) to read:

“(b) No child shall [~~be admitted to~~] attend any school for the first time in the State unless the child presents to the appropriate school official documentation satisfactory to the department of health that the child has been examined and tested according to the rules of the department, and is free from tuberculosis in a communicable form.”

SECTION 12. Section 302A-1155, Hawaii Revised Statutes, is amended to read as follows:

“**§302A-1155 Provisional [~~entrance to~~] attendance at school.** (a) A child may [~~enter~~] attend school provisionally upon submitting written documentation from a licensed physician, physician assistant, advanced practice registered nurse, or an authorized representative of the department of health stating that the child is in the process of receiving the required immunizations. Further documentation showing that the required immunizations have been completed shall be submitted to the appropriate school official no later than three months after the child first [~~entered~~] attends the school. If all of the required immunizations cannot be completed within three months due to the length of the minimum intervals between doses of a particular vaccine required by the department of health, provisional [~~admission~~] attendance may be extended so long as the child’s parent or guardian provides documentation that appointments for required immunizations have been made and that progress toward completing the immunizations continues in accordance with the requirements of the department of health.

(b) Provisional [~~entrance to~~] attendance at school may be suspended by the department of health when there is danger of an epidemic from any of the communicable diseases for which immunization is required.”

SECTION 13. Section 302A-1159, Hawaii Revised Statutes, is amended to read as follows:

“**§302A-1159 Physical examination required.** No child shall [~~be admitted to~~] attend any school for the first time in the State unless the child presents to the appropriate school official a report from a licensed physician or advanced practice registered nurse of the results of a physical examination performed within a year of the date of [~~entry into~~] attendance at school. A child may [~~enter~~] attend school provisionally upon submitting written documentation from a licensed physician, advanced practice registered nurse, or other authorized representative of the department of health stating that the child is in the process of undergoing a physical examination. Further documentation showing that the required physical examination has been completed shall be submitted to the appropriate school official no later than three months after the child first [~~entered~~] attends the school.”

SECTION 14. Section 302A-1161, Hawaii Revised Statutes, is amended to read as follows:

“**§302A-1161 Notification for noncompliance.** If a child does not complete the immunizations required under section 302A-1154 or the physical examination required under section 302A-1159 within the period provided by section 302A-1155 after provisional [~~entry into~~] attendance at school, the administrator of the school shall cause a notice to be sent to the parent or guardian of the child stating that if the required immunizations or physical examination is not

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completed within thirty days of the date of the notice, the child shall not be ~~admitted~~ permitted to attend school.”

SECTION 15. Section 302A-1301, Hawaii Revised Statutes, is amended to read as follows:

“**§302A-1301 School system financial accountability.** (a) Beginning with the 1995-1997 fiscal biennium, the department’s administrative expenditures shall not exceed 6.5 per cent of the total department operating budget, excluding expenditures for agencies administratively attached to the department, unless approved by the legislature.

(b) Not less than seventy per cent of appropriations for the total budget of the department, excluding debt service and capital improvement programs~~;~~ and appropriations for agencies administratively attached to the department, shall be expended by principals.”

SECTION 16. Section 302A-1312, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) For the purposes of this section, the superintendent of education shall develop and implement appropriate planning procedures and follow-up accountability reports to ensure sound planning, control, and accountability in the use of moneys allocated by the legislature. The department of education shall ~~submit an annual report to the legislature~~ annually post on the department’s website information that shall include:

- (1) List of projects initiated by the department of education; and
- (2) List of projects completed with associated actual cost.”

SECTION 17. Section 302A-1103, Hawaii Revised Statutes, is repealed.

SECTION 18. Statutory material to be repealed is bracketed and stricken.<sup>1</sup> New statutory material is underscored.

SECTION 19. This Act shall take effect upon its approval; provided that the amendments made to section 36-27(a), Hawaii Revised Statutes, by section 2 of this Act shall not be repealed when section 36-27, Hawaii Revised Statutes, is reenacted pursuant to section 34 of Act 79, Session Laws of Hawaii 2009.

(Became law on July 8, 2014, without the governor’s signature, pursuant to Art. III, §16, State Constitution.)

**Note**

1. Edited pursuant to HRS §23G-16.5.