
A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1 SECTION 1. The purpose of this Act is to implement, upon
2 its ratification, the constitutional amendment to article X,
3 sections 2 and 3, of the Hawaii Constitution, that provides that
4 the governor shall appoint members of the board of education and
5 the superintendent of education upon the advice and consent of
6 both the house of representatives and the senate.

7 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
8 amended by adding a new section in part IV, subpart C, to be
9 appropriately designated and to read as follows:

10 "§302A- Board members; number. (a) The board of
11 education shall consist of thirteen members, who shall be
12 appointed from two school board districts as follows:

13 (1) Ten members shall be appointed from the first school
14 board district: the island of Oahu, composed of the
15 11th through the 48th and a portion of the 49th (that
16 portion found on the island of Oahu) representative
17 districts; and



1 (2) Three members shall be appointed from the second
2 school board district: the islands of Hawaii, Maui,
3 Lanai, Molokai, Kahoolawe, Kauai, and Niihau, composed
4 of the 1st through the 10th, a portion of the 49th
5 (that portion found on the island of Kauai), and the
6 50th and 51st representative districts.

7 (b) Of the ten members appointed from the first school
8 board district, one shall be a resident of the third
9 departmental school district (Honolulu), one shall be a resident
10 of the fourth departmental school district (Central Oahu), one
11 shall be a resident of the fifth departmental school district
12 (Leeward Oahu), and one shall be a resident of the sixth
13 departmental school district (Windward Oahu).

14 (c) Of the three members appointed from the second school
15 board district, one shall be a resident of the first
16 departmental school district (Hawaii), one shall be a resident
17 of the second departmental school district (Maui), and one shall
18 be a resident of the seventh departmental school district
19 (Kauai).

20 (d) The departmental school districts shall be as follows:

21 First departmental school district (Hawaii): the island of
22 Hawaii composed of the 1st through the 5th and a portion of the



1 6th (that portion found on the island of Hawaii) representative
2 districts;

3 Second departmental school district (Maui): the islands of
4 Maui, Molokai (including the county of Kalawao), Lanai, and
5 Kahoolawe composed of a portion of the 6th (that portion found
6 on the island of Maui) and the 7th through the 10th
7 representative districts;

8 Third departmental school district (Honolulu): that
9 portion of the island of Oahu composed of the 21st through the
10 41st representative districts;

11 Fourth departmental school district (Central Oahu): that
12 portion of the island of Oahu composed of the 11th through the
13 14th and the 45th representative districts;

14 Fifth departmental school district (Leeward Oahu): that
15 portion of the island of Oahu composed of the 42nd through the
16 44th, the 46th through the 48th and a portion of the 49th (that
17 portion found on the island of Oahu) representative districts;

18 Sixth departmental school district (Windward Oahu): that
19 portion of the island of Oahu composed of the 15th through the
20 20th representative districts; and

21 Seventh departmental school district (Kauai): the islands
22 of Kauai and Niihau composed of a portion of the 49th (that



1 portion found on the island of Kauai) and the 50th and 51st
2 representative districts."

3 SECTION 3. Section 11-157, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§11-157 In case of tie. In case of the failure of an
6 election by reason of the equality of vote between two or more
7 candidates, the tie shall be decided by the chief election
8 officer or county clerk in the case of county elections in
9 accordance with the following procedure:

10 (1) In the case of an election involving a seat for the
11 senate, house of representatives, [~~board of~~
12 ~~education,~~] or county council where only voters within
13 a specified district are allowed to cast a vote, the
14 winner shall be declared as follows:

15 (A) For each precinct in the affected district, an
16 election rate point shall be calculated by
17 dividing the total voter turnout in that precinct
18 by the total voter turnout in the district. For
19 the purpose of this subparagraph, the absentee
20 votes cast for the affected district shall be
21 treated as a precinct. The election rate point
22 shall be calculated by dividing the total



1 absentee votes cast for the affected district by
2 the total voter turnout in that district. All
3 election rate points shall be expressed as
4 decimal fractions rounded to the nearest hundred
5 thousandth.

6 (B) The candidate with the highest number of votes in
7 a precinct shall be allocated the election rate
8 point calculated under subparagraph (A) for that
9 precinct. In the event that two or more persons
10 are tied in receiving the highest number of votes
11 for that precinct, the election rate point shall
12 be equally apportioned among those candidates
13 involved in that precinct tie.

14 (C) After the election rate points calculated under
15 subparagraph (A) for all the precincts have been
16 allocated as provided under subparagraph (B), the
17 election rate points allocated to each candidate
18 shall be tallied and the candidate with the
19 highest election rate point total shall be
20 declared the winner.

21 (D) If there is a tie between two or more candidates
22 in the election rate point total, the candidate



1 who is allocated the highest election rate points
2 from the precinct with the largest voter turnout
3 shall be declared the winner.

4 (2) In the case of an election involving a federal office
5 or an elective office where the voters in the entire
6 [State] state or in an entire county are allowed to
7 cast a vote, the winner shall be declared as follows:

8 (A) For each representative district in the [State]
9 state or county, as the case may be, an election
10 rate point shall be calculated by dividing the
11 total voter turnout in that representative
12 district by the total voter turnout in the state,
13 county, or federal office district, as the case
14 may be; provided that for purposes of this
15 subparagraph:

16 (i) The absentee votes cast for a statewide,
17 countywide, or federal office shall be
18 treated as a separate representative
19 district and the election rate point shall
20 be calculated by dividing the total absentee
21 votes cast for the statewide, countywide, or
22 federal office by the total voter turnout in



1 the state, county, or federal office
2 district, as the case may be.

3 (ii) The overseas votes cast for any election in
4 the [State] state for a federal office shall
5 be treated as a separate representative
6 district and the election rate point shall
7 be calculated by dividing the total number
8 of overseas votes cast for the affected
9 federal office by the total voter turnout in
10 the affected federal office district. The
11 term "overseas votes" means those votes cast
12 by absentee ballots for a presidential
13 election as provided in section 15-3.

14 All election rate points shall be expressed as
15 decimal fractions rounded to the nearest hundred
16 thousandth.

17 (B) The candidate with the highest number of votes in
18 a representative district shall be allocated the
19 election rate point calculated under subparagraph
20 (A) for that district. In the event that two or
21 more persons are tied in receiving the highest
22 number of votes for that district, the election



1 rate point shall be equally apportioned among
2 those candidates involved in that district tie.

3 (C) After the election rate points calculated under
4 subparagraph (A) for all the precincts have been
5 allocated as prescribed under subparagraph (B),
6 the election rate points allocated to each
7 candidate shall be tallied and the candidate with
8 the election rate point total shall be declared
9 the winner.

10 (D) If there is a tie between two or more candidates
11 in the election rate point total, the candidate
12 who is allocated the highest election rate points
13 from the representative district with the largest
14 voter turnout shall be declared the winner."

15 SECTION 4. Section 11-195, Hawaii Revised Statutes, is
16 amended by amending subsection (d) to read as follows:

17 "(d) For purposes of this subpart, whenever a report is
18 required to be filed with the commission, "filed" means
19 electronically filed on the commission's electronic filing
20 system by the date and time specified for the filing of the
21 report by the:



- 1 (1) Candidate or the committee of a candidate who is
2 seeking election to the:
3 (A) Office of governor;
4 (B) Office of lieutenant governor;
5 (C) Office of mayor;
6 (D) Office of prosecuting attorney;
7 (E) County council;
8 (F) Senate;
9 (G) House of representatives; or
10 (H) Office of Hawaiian affairs; [~~or~~
11 ~~(I) Board of education;~~] or
12 (2) Noncandidate committee required to be registered with
13 the commission pursuant to section 11-194."

14 SECTION 5. Section 11-209, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) From January 1 of the year of any primary, special,
17 or general election, the total expenditures for each election
18 for candidates who voluntarily agree to limit their campaign
19 expenditures, inclusive of all expenditures made or authorized
20 by the candidate alone and all campaign treasurers and
21 committees in the candidate's behalf, shall not exceed the
22 following amounts expressed respectively multiplied by the



1 number of voters in the last preceding general election
2 registered to vote in each respective voting district:

- 3 (1) For the office of governor--\$2.50;
- 4 (2) For the office of lieutenant governor--\$1.40;
- 5 (3) For the office of mayor--\$2.00; and
- 6 (4) For the offices of state senator, state
7 representative, and county council member--\$1.40 [~~and~~
- 8 ~~(5) For the offices of the board of education and all~~
9 ~~other offices--20 cents]."~~

10 SECTION 6. Section 11-218, Hawaii Revised Statutes, is
11 amended by amending subsection (d) to read as follows:

12 "(d) For [~~the board of education and~~] all other offices,
13 the maximum amount of public funds available to a candidate
14 shall not exceed \$100 in any election year."

15 SECTION 7. Section 12-5, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) Nomination papers for candidates for members of
18 Congress, governor, and the lieutenant governor [~~and the board~~
19 ~~of education~~] shall be signed by not less than twenty-five
20 registered voters of the State or of the Congressional district
21 [~~or school board district~~] from which the candidates are running



1 in the case of candidates for the United States House of
2 Representatives [~~or for the board of education~~]."

3 SECTION 8. 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 a temporary or permanent state board, including members of the
8 board of education, the local school board of any charter school
9 established under chapter 302B, council, authority, committee,
10 or commission, established by law or elected to [~~the board of~~
11 ~~education, or~~] the board of trustees of the employees'
12 retirement system under section 88-24, or the corporation board
13 of the Hawaii health systems corporation under section 323F-3
14 and its regional system boards under section 323F-3.5; provided
15 that "member" shall not include any person elected to serve on a
16 board or commission in accordance with chapter 11 [~~other than a~~
17 ~~person elected to serve on the board of education~~]."

18 SECTION 9. Section 84-17, Hawaii Revised Statutes, is
19 amended by amending subsection (d) to read as follows:

20 "(d) The financial disclosure statements of the following
21 persons shall be public records and available for inspection and
22 duplication:



- 1 (1) The governor, the lieutenant governor, the members of
2 the legislature, candidates for and delegates to the
3 constitutional convention, [~~the members of the board~~
4 ~~of education,~~] the trustees of the office of Hawaiian
5 affairs, and candidates for state elective offices;
- 6 (2) The directors of the state departments and their
7 deputies, regardless of the titles by which the
8 foregoing persons are designated; provided that with
9 respect to the department of the attorney general, the
10 foregoing shall apply only to the attorney general and
11 the first deputy attorney general;
- 12 (3) The administrative director of the State;
- 13 (4) The president, the vice presidents, the assistant vice
14 presidents, the chancellors, and the provosts of the
15 University of Hawaii;
- 16 (5) The members of the board of education, and the
17 superintendent, the deputy superintendent, the state
18 librarian, and the deputy state librarian of the
19 department of education;
- 20 (6) The administrative director and the deputy director of
21 the courts; and



1 (7) The administrator and the assistant administrator of
2 the office of Hawaiian affairs."

3 SECTION 10. Section 84-41, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§84-41[+] Applicability of part. This part applies to
6 legislators, [~~elected members of the board of education,~~]
7 trustees of the office of Hawaiian affairs, the governor, the
8 lieutenant governor, and executive department heads and
9 deputies. This part does not apply to any other officer or
10 employee of the State."

11 SECTION 11. Section 88-21, Hawaii Revised Statutes, is
12 amended by amending the definition of "elective officer" or
13 "elective official" to read as follows:

14 ""Elective officer" or "elective official": any person
15 elected to a public office or appointed to fill a vacancy of an
16 elective office, except as a delegate to a constitutional
17 convention [~~or member of the board of education~~], in accordance
18 with an election duly held in the [~~State~~] state or counties
19 under chapter 11; provided that the person receives
20 compensation, pay, or salary for such office."

21 SECTION 12. Section 302A-1101, Hawaii Revised Statutes, is
22 amended by amending subsections (a) and (b) to read as follows:



1 "(a) There shall be a principal executive department to be
2 known as the department of education, which shall be headed by
3 ~~[an elected]~~ a policy-making board to be known as the board of
4 education. The board shall have power in accordance with law to
5 formulate statewide educational policy, adopt student
6 performance standards and assessment models, and monitor school
7 success ~~[, and to appoint the superintendent of education as the
8 chief executive officer of the public school system]~~.

9 (b) ~~[The board shall appoint, and may remove, the
10 superintendent by a majority vote of its members. The
11 superintendent:~~

- 12 ~~(1) May be appointed without regard to the state residency
13 provisions of section 78-1(b);
14 (2) May be appointed for a term of up to four years; and
15 (3) May be terminated only for cause.]~~

16 There shall be a superintendent of education who shall be
17 the chief executive officer of the public school system. The
18 superintendent shall be appointed by the governor in accordance
19 with article X, section 2, of the Hawaii Constitution. The
20 superintendent may be appointed without regard to the state
21 residency provisions of section 78-1."



1 SECTION 13. Section 302A-1110, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~f~~] §302A-1110 [~~f~~] Educational districts not applicable.

4 The educational districts established by section 4-1 shall not
5 be applicable to, nor alter, the school board or departmental
6 school districts, established by section [~~13-17~~] 302A-__, or the
7 school districts established for administrative purposes by the
8 department."

9 SECTION 14. Section 17-6, Hawaii Revised Statutes, is
10 repealed.

11 [~~§17-6 Board of education members.~~ (a) ~~The governor~~
12 ~~shall make an appointment to fill any vacancy in the membership~~
13 ~~of the board of education for the unexpired term of that vacancy~~
14 ~~whenever a vacancy occurs and the term of that vacancy ends at~~
15 ~~the time of the next succeeding general election.~~

16 ~~(b) In the case of a vacancy, the term of which does not~~
17 ~~end at the next succeeding general election:~~

18 ~~(1) If it occurs not later than on the sixtieth day prior~~
19 ~~to the next succeeding general election, the vacancy~~
20 ~~shall be filled for the unexpired term at the next~~
21 ~~succeeding general election. The chief election~~
22 ~~officer shall issue a proclamation designating the~~



1 ~~election for filling the vacancy. All candidates for~~
2 ~~the unexpired term shall file nomination papers not~~
3 ~~later than 4:30 p.m. on the fiftieth day prior to the~~
4 ~~general election (but if such day is a Saturday,~~
5 ~~Sunday, or holiday then not later than 4:30 p.m. on~~
6 ~~the first working day immediately preceding) and shall~~
7 ~~be elected in accordance with this title. Pending the~~
8 ~~election the governor shall make a temporary~~
9 ~~appointment to fill the vacancy and the person so~~
10 ~~appointed shall serve until the election of the person~~
11 ~~duly elected to fill such vacancy.~~

12 ~~(2) If it occurs after the sixtieth day prior to the next~~
13 ~~succeeding general election, the governor shall make~~
14 ~~an appointment to fill the vacancy for the unexpired~~
15 ~~term.~~

16 ~~(c) All appointments made by the governor under this~~
17 ~~section shall be made without consideration of the appointee's~~
18 ~~party affiliation or preference or nonpartisanship, however the~~
19 ~~persons so appointed shall meet the residency requirement~~
20 ~~specified in section 13-1."]~~

21 SECTION 15. Chapter 13, Hawaii Revised Statutes, is
22 repealed.



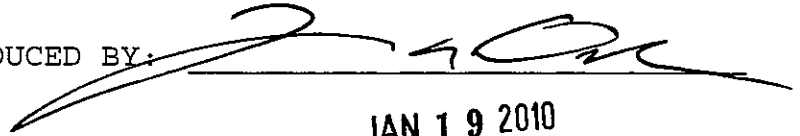
H.B. NO. 1989

1 SECTION 16. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 17. This Act shall take effect upon its approval
4 and upon ratification of a constitutional amendment that allows
5 the governor to appoint the members of the board of education
6 and the superintendent of education upon confirmation by both
7 the state house of representatives and the senate.

8

INTRODUCED BY:

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JAN 19 2010



Report Title:

Appointed Board of Education and Superintendent of Education

Description:

Provides housekeeping amendments to election and education statutes to implement an amendment to the Hawaii Constitution that requires members of the Board of Education and the Superintendent of Education to be nominated and, upon the advice and consent of the State House of Representatives and the Senate, appointed by the Governor.

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

