
A BILL FOR AN ACT

RELATING TO THE BOARD OF EDUCATION.

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

PART I

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SECTION 1. The legislature finds that significant changes to the public education system, including clearer accountability for the performance, administration, and progress of the public education system, are needed to improve the quality of education and student achievement. The legislature further finds that changing the process of selecting members of the board of education from election to appointment by the governor, similar to the appointment process for the University of Hawaii board of regents, will make the board members more accountable to the governor while still allowing representatives of various stakeholders in the public education system to inform the governor's board appointments.

The purpose of this Act is to implement one or both amendments to the state constitution that would:

- (1) Change the method of selection of board of education members from election to appointment by the governor,

1 with the advice and consent of the senate, from pools
2 of qualified candidates presented to the governor by a
3 newly established board of education candidate
4 nomination commission; and

- 5 (2) Authorize the board of education student member to
6 vote on all matters before the board, except for those
7 matters relating to fiscal and personnel issues, upon
8 ratification of an appropriate constitutional
9 amendment, and require the Hawaii student council to
10 hold an election, with all secondary public schools
11 participating, to elect the student member.

12 Part II of this Act contains the statutory amendments
13 necessary to implement only the constitutional amendment that
14 authorizes the student member to vote on all matters before the
15 board and which makes the student member position subject to an
16 election, with all secondary public schools participating. Part
17 III of this Act contains the statutory amendments necessary to
18 implement only the constitutional amendment that changes the
19 selection method of the board of education members from election
20 to appointment by the governor. Part IV of this Act contains
21 statutory provisions applicable to both constitutional
22 amendments.



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PART II

STUDENT ONLY PROVISIONS

SECTION 2. Chapter 13, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§13- Definitions. Whenever used in this chapter, unless a different meaning clearly appears from the context:

"Member" means a member of the board of education who is elected by the registered voters as provided in section 13-1(a), and specifically excludes the student member.

"Student member" means the student member of the board of education who is elected pursuant to sections 13-1(e) and 302A-447.

"Voting member" means a member or the student member of the board of education."

SECTION 3. Section 13-1, Hawaii Revised Statutes, is amended to read as follows:

"§13-1 Board members; number. (a) The board of education shall consist of thirteen members who shall be elected by the registered voters of two at-large school board districts as [follows:] described below and one student member who shall be elected as described in subsection (e).



1 First school board district: the island of Oahu, comprised
2 of the 11th through the 48th and a portion of the 49th (that
3 portion found on the island of Oahu) representative districts,
4 and the

5 Second school board district: the islands of Hawaii, Maui,
6 Lanai, Molokai, Kahoolawe, Kauai, and Niihau, comprised of the
7 1st through the 10th, a portion of the 49th (that portion found
8 on the island of Kauai), and the 50th and 51st representative
9 districts.

10 (b) Ten members shall be elected at-large from the first
11 school board district. Of the ten members elected at-large from
12 that district, one shall be a resident of the third departmental
13 school district (Honolulu), one shall be a resident of the
14 fourth departmental school district (Central Oahu), one shall be
15 a resident of the fifth departmental school district (Leeward
16 Oahu), and one shall be a resident of the sixth departmental
17 school district (Windward Oahu).

18 (c) Three members shall be elected at-large from the
19 second school board district. Of the three members elected at-
20 large from that district, one shall be a resident of the first
21 departmental school district (Hawaii), one shall be a resident
22 of the second departmental school district (Maui), and one shall



1 be a resident of the seventh departmental school district
2 (Kauai).

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

4 First departmental school district (Hawaii): the island of
5 Hawaii comprised of the 1st through the 5th and a portion of the
6 6th (that portion found on the island of Hawaii) representative
7 districts;

8 Second departmental school district (Maui): the islands of
9 Maui, Molokai (including the county of Kalawao), Lanai, and
10 Kahoolawe comprised of a portion of the 6th (that portion found
11 on the island of Maui) and the 7th through the 10th
12 representative districts;

13 Third departmental school district (Honolulu): that
14 portion of the island of Oahu comprised of the 21st through the
15 41st representative districts;

16 Fourth departmental school district (Central Oahu): that
17 portion of the island of Oahu comprised of the 11th through the
18 14th and the 45th representative districts;

19 Fifth departmental school district (Leeward Oahu): that
20 portion of the island of Oahu comprised of the 42nd through the
21 44th, the 46th through the 48th and a portion of the 49th (that
22 portion found on the island of Oahu) representative districts;



1 Sixth departmental school district (Windward Oahu): that
2 portion of the island of Oahu comprised of the 15th through the
3 20th representative districts; and

4 Seventh departmental school district (Kauai): the islands
5 of Kauai and Niihau comprised of a portion of the 49th (that
6 portion found on the island of Kauai) and the 50th and 51st
7 representative districts.

8 (e) Pursuant to article X, section 2 of the state
9 constitution, the Hawaii state student council shall hold an
10 election, with all secondary public schools participating, as
11 provided in section 302A-447, to elect a public high school
12 student who shall serve as a voting member on the board of
13 education. The student member shall have full voting privileges
14 on all matters before the board, except for those matters
15 relating to fiscal and personnel issues."

16 SECTION 4. Section 13-2, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§13-2 Qualifications.** [~~No~~] Except for the student
19 member, no person shall be eligible for election or appointment
20 as a member to the board of education unless the person is a
21 registered voter of the school board district from which the
22 person is to be elected or appointed and, where residency in a



1 particular departmental school district is a requirement, a
2 resident of the departmental school district for which seat the
3 person is seeking election or appointment. No member of the
4 board shall hold or be a candidate for any other public office
5 under the state or county governments in accordance with Article
6 II, section 7 of the Constitution of the State; nor shall a
7 person be eligible for election or appointment as a member to
8 the board of education if that person is also a candidate for
9 any other public office under the state or county governments.
10 The term "public office", for the purposes of this section,
11 shall not include notaries public, reserve police officers, or
12 officers of emergency organizations for civilian defense or
13 disaster relief."

14 SECTION 5. Section 13-3, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§13-3 Election of members.** (a) Members of the board of
17 education shall be nominated at a primary election and elected
18 at the general election. Except as otherwise provided by this
19 chapter, the candidates for the board of education shall be
20 elected in the manner prescribed by this title.

21 (1) Nomination papers, preparation of. The chief election
22 officer shall prepare nomination papers in such a



1 manner that a candidate desiring to file for election
2 to the board of education shall be able to specify
3 whether the candidate is seeking a seat requiring
4 residency in a particular departmental school district
5 or a seat without such residency requirement.

6 (2) Ballot. The school board ballot shall be prepared in
7 such a manner as to afford every voter eligible to
8 vote in a school board district race the opportunity
9 to vote for each and every candidate seeking election
10 from that school board district.

11 The school board ballot shall contain the names
12 of all board candidates arranged alphabetically in a
13 nonpartisan manner; provided that the names of
14 candidates seeking seats requiring residency in a
15 particular departmental school district shall be
16 grouped alphabetically according to departmental
17 school districts.

18 (3) Primary election. Two candidates receiving the most
19 votes for each available seat shall be nominated for
20 the general election. If, after the close of filing
21 of nomination papers, there are only two qualified
22 candidates for any seat requiring residency in a



1 particular departmental school district, the chief
2 election officer shall declare those two candidates
3 duly nominated for the general election. The names of
4 those two candidates shall not appear on the primary
5 election ballot.

6 (4) General election. Each voter in the general election
7 shall be entitled to receive the school board ballot
8 and to vote for the number of seats available in the
9 respective school board districts.

10 (b) In the event that there is only one qualified
11 candidate for any seat requiring residency in a particular
12 departmental school district, after the close of filing of
13 nomination papers, the chief election officer shall declare such
14 candidate to be duly and legally elected. In the event that the
15 number of qualified candidates for seats without such residency
16 requirement is equal to or less than the number of such seats to
17 be filled, after the close of filing of nomination papers, the
18 chief election officer shall declare such candidates to be duly
19 and legally elected.

20 (c) This section shall not apply to the student member."

21 SECTION 6. Section 13-4, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "**§13-4 Board members; term, vacancies.** (a) The term of
2 office of members of the board shall be for four years beginning
3 on the day of the special election held in conjunction with the
4 general election of the year in which they are elected and
5 ending on the day of the special election held in conjunction
6 with the second general election after their election, except as
7 provided in subsection (c). Members of the board may be re-
8 elected without restriction as to the number of terms.

9 (b) Any vacancy of a member that may occur through any
10 cause other than the expiration of the term of office shall be
11 filled in accordance with section 17-6.

12 (c) Members of the board elected at the special election
13 held in conjunction with the general election in 1984 shall be
14 divided into two classes. There shall be seven members in the
15 first class who shall hold office for a term of four years
16 beginning with their election and ending on the day of the
17 special election held in conjunction with the second general
18 election after their election. The remaining members shall
19 comprise the second class and shall hold office for a term of
20 two years beginning with their election and ending on the day of
21 the special election held in conjunction with the next general



1 election after their election, and then members of the second
2 class shall be elected to four year terms.

3 Membership in the first class shall consist of: three
4 members who are elected with the highest number of votes from
5 the first school board district as designated under section 13-
6 1, who are not required to reside in any particular departmental
7 school district and one member elected from each odd-numbered
8 departmental school district. Membership of the second class
9 shall consist of the remaining elected school board members.

10 (d) The term of office for the student member of the board
11 shall be for one year; provided that the student member may
12 serve a second term of one year subject to being duly elected
13 pursuant to sections 13-1(e) and 302A-447 or as may otherwise be
14 determined by the Hawaii student council."

15 **PART III**

16 **APPOINTED BOARD ONLY PROVISIONS**

17 SECTION 7. Chapter 302A, Hawaii Revised Statutes, is
18 amended by adding a new section to be appropriately designated
19 and to read as follows:

20 "§302A-A Board of education; members. (a) The board of
21 education shall consist of thirteen voting members. Pursuant to
22 article X, section 2 of the state constitution, the voting



1 members shall be appointed by the governor, with the advice and
2 consent of the senate, from pools of qualified candidates
3 presented to the governor by the board of education candidate
4 nomination commission established under section 302A-F. At
5 least twelve voting members shall represent and reside in the
6 specified geographic areas as follows:

- 7 (1) Two members from the county of Hawaii;
- 8 (2) Two members from the county of Maui;
- 9 (3) One member from the county of Kauai; and
- 10 (4) Seven members from the city and county of Honolulu.

11 (b) The Hawaii state student council shall select a public
12 high school student to serve as a nonvoting member on the board
13 of education.

14 (c) The board shall invite the senior military commander
15 in Hawaii to appoint a nonvoting military representative to the
16 board, who shall serve for a two-year term without compensation.
17 As the liaison to the board, the military representative shall
18 advise the board regarding state education policies and
19 departmental actions affecting students who are enrolled in
20 public schools as family members of military personnel. The
21 military representative shall carry out these duties as part of
22 the representative's official military duties and shall be

1 guided by applicable state and federal statutes, rules,
2 regulations, and policies and may be removed only for cause by a
3 majority vote of the members of the board."

4 **PART IV**

5 **BOTH STUDENT MEMBER AND APPOINTED BOARD PROVISIONS**

6 SECTION 8. Chapter 302A, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 "§302A-A Board of education; members. (a) The board of
10 education shall consist of thirteen voting members and one
11 voting student member, as described in subsection (b). Pursuant
12 to article X, section 2 of the state constitution, the members
13 shall be appointed by the governor, with the advice and consent
14 of the senate, from pools of qualified candidates presented to
15 the governor by the board of education candidate nomination
16 commission established under section 302A-F. At least twelve
17 voting members shall represent and reside in the specified
18 geographic areas as follows:

- 19 (1) Two members from the county of Hawaii;
20 (2) Two members from the county of Maui;
21 (3) One member from the county of Kauai; and
22 (4) Seven members from the city and county of Honolulu.



1 (b) Pursuant to article X, section 2 of the state
2 constitution, the Hawaii state student council shall hold an
3 election, with all secondary public schools participating, as
4 provided in section 302A-447, to elect a public high school
5 student to serve as a voting student member on the board of
6 education. The student member shall have full voting privileges
7 on all matters before the board except for those matters
8 relating to fiscal and personnel issues.

9 (c) The board shall invite the senior military commander
10 in Hawaii to appoint a nonvoting military representative to the
11 board, who shall serve for a two-year term without compensation.
12 As the liaison to the board, the military representative shall
13 advise the board regarding state education policies and
14 departmental actions affecting students who are enrolled in
15 public schools as family members of military personnel. The
16 military representative shall carry out these duties as part of
17 the representative's official military duties and shall be
18 guided by applicable state and federal statutes, rules,
19 regulations, and policies and may be removed only for cause by a
20 majority vote of the members of the board."



1 SECTION 9. Chapter 302A, Hawaii Revised Statutes, is
2 amended by adding eight new sections to part IV, subpart C, to
3 be appropriately designated and to read as follows:

4 "§302A-B Departmental school districts. The departmental
5 school districts shall be as follows:

6 (1) First departmental school district (Hawaii): the
7 island of Hawaii comprised of the 1st through the 5th
8 and a portion of the 6th (that portion found on the
9 island of Hawaii) representative districts;

10 (2) Second departmental school district (Maui): the
11 islands of Maui, Molokai (including the county of
12 Kalawao), Lanai, and Kahoolawe comprised of a portion
13 of the 6th (that portion found on the island of Maui)
14 and the 7th through the 10th representative districts;

15 (3) Third departmental school district (Honolulu): that
16 portion of the island of Oahu comprised of the 21st
17 through the 41st representative districts;

18 (4) Fourth departmental school district (Central Oahu):
19 that portion of the island of Oahu comprised of the
20 11th through the 14th and the 45th representative
21 districts;



1 (5) Fifth departmental school district (Leeward Oahu):
2 that portion of the island of Oahu comprised of the
3 42nd through the 44th, the 46th through the 48th and a
4 portion of the 49th (that portion found on the island
5 of Oahu) representative districts;

6 (6) Sixth departmental school district (Windward Oahu):
7 that portion of the island of Oahu comprised of the
8 15th through the 20th representative districts; and

9 (7) Seventh departmental school district (Kauai): the
10 islands of Kauai and Niihau comprised of a portion of
11 the 49th (that portion found on the island of Kauai)
12 and the 50th and 51st representative districts.

13 §302A-C Reapportionment. Upon the implementation of a new
14 apportionment plan, the chief election officer, by proclamation
15 issued no later than the tenth day prior to the close of filing
16 in elections, shall designate the representative districts that
17 comprise the departmental school districts described in section
18 302A-B to comply with the new districting scheme of such plan;
19 provided that the departmental school districts designated shall
20 cover areas similar to those described in section 302A-B.

21 §302A-D Board members; qualifications. Except for the
22 student member, no person shall be eligible for appointment as a



1 member to the board of education unless the person is a resident
2 and registered voter of the county from which the person is to
3 be appointed. No member of the board shall hold or be a
4 candidate for any other public office under the state or county
5 governments; nor shall a person be eligible for appointment to
6 the board of education as a member if that person is also a
7 candidate for any other public office under the state or county
8 government. The term "public office", for the purposes of this
9 section, shall not include notaries public, reserve police
10 officers, or officers of emergency organizations for civilian
11 defense or disaster relief.

12 §302A-E Board members; terms, vacancies. (a) The term of
13 office of members of the board shall be four years, commencing
14 on July 1 and expiring on June 30; provided that the three
15 members initially nominated by the members of the board of
16 education candidate nomination commission who have been
17 appointed by the speaker of the house of representatives, the
18 president of the senate, and the governor shall serve for terms
19 of two years; provided that the term of office for the student
20 member of the board shall be for one year; and provided further
21 that the student member may serve a second term of one year,
22 subject to section 302A-447.



1 (b) Any vacancy of a member that may occur through any
2 cause other than the expiration of the term of office shall be
3 filled in accordance with section 302A-G.

4 **§302A-F Board of education candidate nomination**
5 **commission; establishment, duties.** (a) There is established
6 the board of education candidate nomination commission to
7 present to the governor pools of qualified candidates from which
8 the members of the board of education shall be nominated and
9 appointed by the governor with the advice and consent of the
10 senate. The candidate nomination commission shall establish the
11 criteria for qualifying, screening, and presenting to the
12 governor member candidates on the board of education. The
13 candidate nomination commission shall be attached to the
14 department of education for administrative purposes.

15 (b) Except as provided in subsection (c), within sixty
16 days of convening its first meeting, the candidate nomination
17 commission shall present no fewer than two and no more than four
18 qualified member candidates to the governor for each vacant seat
19 on the board of education that has arisen due to resignation,
20 death, or removal by the governor; provided that for all
21 subsequent presentations to the governor, the candidate
22 nomination commission shall present no fewer than two and no



1 more than four member candidates for each seat on the board of
2 education to the governor within:

3 (1) Thirty days of a vacancy that arises by resignation,
4 death, or removal by the governor; or

5 (2) One hundred twenty days prior to the expiration of a
6 term of a member.

7 (c) When there are multiple seats vacant for members
8 within the same county, the candidate nomination commission
9 shall present member candidates for seats on the board of
10 education to the governor as follows:

11 (1) For two seats from the same county, no fewer than four
12 and no more than six member candidates;

13 (2) For three seats from the same county, no fewer than
14 five and no more than eight member candidates; and

15 (3) For more than three seats, the candidate nomination
16 commission shall determine appropriate minimum numbers
17 of member candidates, which shall provide for at least
18 three member candidates for the final seat, and
19 maximum numbers of member candidates.

20 (d) In making its presentations, the candidate nomination
21 commission shall:



- 1 (1) Develop a statement that includes the selection
2 criteria to be applied and a description of the
3 responsibilities and duties of a member of the board
4 of education and distribute this statement to
5 potential member candidates;

- 6 (2) Screen and qualify member candidates for each member
7 position on the board of education based on their
8 background, experience, and potential for discharging
9 the responsibilities of a member of the board of
10 education;

- 11 (3) Publicly advertise pending vacancies and actively
12 solicit and accept applications from potential member
13 candidates;

- 14 (4) Develop and implement a fair, independent, and
15 nonpartisan procedure for selecting member candidates
16 to serve on the board of education; and

- 17 (5) Require each member candidate to disclose any existing
18 or anticipated contracts with the department of
19 education or any existing or anticipated financial
20 transactions with the department of education.



1 Upon submission to the governor, presentations of the candidate
2 nomination commission shall be made available to the public by
3 the department of education.

4 (e) For each board member seat to be filled, the governor
5 shall select one nominee from among the candidate nomination
6 commission's presentation within days of the presentation.

7 (f) Notwithstanding chapter 92F or any other law to the
8 contrary, all information required by the board of education
9 candidate nomination commission shall be confidential, including
10 without limitation, all information obtained, reviewed, or
11 considered before and after commission decision-making.

12 Confidential candidate nomination commission information shall
13 include documents, data, or other information that is not of
14 public record, including without limitation, personal financial
15 information; the names of applicants; applications and the
16 personal, financial, and other information contained therein
17 submitted by the applicants to the candidate nomination
18 commission; interviews; schedules; reports; studies; background
19 checks; credit reports; surveys and reports prepared for or on
20 the candidate nomination commission's behalf; the results of any
21 evaluations or assessments conducted by the candidate nomination
22 commission; the substance and details of any discussions with



1 candidate nomination commission members; and the substance and
2 details of discussions and deliberations of the candidate
3 nomination commission and any of its committees during meetings.

4 **§302A-G Board of education candidate nomination**

5 **commission; members, terms, vacancies.** (a) The candidate
6 nomination commission shall consist of seven members to be
7 appointed without regard to section 26-34 as follows:

- 8 (1) One member shall be appointed by the president of the
9 senate;
- 10 (2) One member shall be appointed by the speaker of the
11 house of representatives;
- 12 (3) One member shall be appointed by the governor;
- 13 (4) One member shall be appointed by the exclusive
14 representative for bargaining unit (5);
- 15 (5) One member shall be appointed by the Hawaii P-20
16 council;
- 17 (6) One member shall be the president of a school
18 community council appointed by the superintendent of
19 education; and
- 20 (7) One member shall be a former board of education
21 student member and graduate of a public school, who



1 shall be appointed by the chairperson of the executive
2 council of the Hawaii state student council.

3 (b) Members of the candidate nomination commission shall
4 be selected in a wholly nonpartisan manner. If any member has
5 not been appointed within one hundred eighty days of the
6 effective date of Act , Session Laws of Hawaii 2010, the
7 sitting members on the candidate nomination commission shall
8 make an interim appointment to fill the vacant seat. The
9 interim appointee shall satisfy the requirements for appointment
10 provided in this subsection and shall serve until the time when
11 the appropriate appointing authority makes an appointment for
12 the vacant seat as provided in this subsection. Appointees to
13 the candidate nomination commission shall have a general
14 understanding of the purposes, mission, and responsibilities of
15 the board of education and the department of education.
16 Appointees shall be individuals who are widely viewed as having
17 placed the broad public interest ahead of special interests,
18 having achieved a high level of prominence in their respective
19 professions, and being respected members of the community.

20 (c) Members of the candidate nomination commission shall
21 serve four-year terms; provided that the three members initially
22 appointed by the governor, the president of the senate, and the



1 speaker of the house of representatives shall serve for terms of
2 two years; provided further that terms for appointments of the
3 initial members of the candidate nomination commission shall be
4 deemed to begin on July 1 following the effective date of Act
5 , Session Laws of Hawaii 2010, regardless of the actual date
6 of appointment.

7 (d) Members of the candidate nomination commission shall
8 serve without compensation but shall be reimbursed for expenses,
9 including travel, board, and lodging expenses necessary for the
10 performance of their duties.

11 (e) The candidate nomination commission shall operate in a
12 wholly nonpartisan manner. No individual, while a member of the
13 candidate nomination commission, shall run for or hold any
14 elected office under the United States or the State or any of
15 its political subdivisions.

16 (f) If a vacancy occurs, a successor shall be appointed in
17 the same manner and subject to the same qualifications as the
18 person's predecessor. The person appointed to fill a vacancy
19 shall serve for the remainder of the term of the person's
20 predecessor.

21 **§302A-H Board of education candidate nomination**
22 **commission; meetings.** The candidate nomination commission shall



1 convene its first meeting on or after thirty-one days from the
2 effective date of Act ; Session Laws of Hawaii 2010;
3 provided that, if thirty days after the effective date of Act
4 , Session Laws of Hawaii 2010, all the members to which the
5 candidate nomination commission is entitled have not yet been
6 appointed, the candidate nomination commission shall convene its
7 first meeting upon the appointment of a majority of its members.
8 The members of the candidate nomination commission shall choose
9 a chairperson from among themselves. A majority of all the
10 members to which the candidate nomination commission is entitled
11 shall constitute a quorum to conduct business. The concurrence
12 of a majority of all the members to which the candidate
13 nomination commission is entitled shall be necessary to make any
14 action of the candidate nomination commission valid. The
15 candidate nomination commission shall meet annually and at other
16 times as necessary. The candidate nomination commission shall
17 be exempt from part I of chapter 92."

18 §302A-I Definitions. Whenever used in sections 302A-A
19 through 302A-H, unless a different meaning clearly appears from
20 the context:



1 "Member" means a member of the board of education who is
2 elected by the registered voters as provided in section 13-1(a),
3 and specifically excludes the student member.

4 "Student member" means the student member of the board of
5 education who is elected pursuant to section 302A-447.

6 "Voting member" means a member or the student member of the
7 board of education."

8 SECTION 10. Section 11-157, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§11-157 In case of tie.** In case of the failure of an
11 election by reason of the equality of vote between two or more
12 candidates, the tie shall be decided by the chief election
13 officer or county clerk in the case of county elections in
14 accordance with the following procedure:

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

20 (A) For each precinct in the affected district, an
21 election rate point shall be calculated by
22 dividing the total voter turnout in that precinct



1 by the total voter turnout in the district. For
2 the purpose of this subparagraph, the absentee
3 votes cast for the affected district shall be
4 treated as a precinct. The election rate point
5 shall be calculated by dividing the total
6 absentee votes cast for the affected district by
7 the total voter turnout in that district. All
8 election rate points shall be expressed as
9 decimal fractions rounded to the nearest hundred
10 thousandth.

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

19 (C) After the election rate points calculated under
20 subparagraph (A) for all the precincts have been
21 allocated as provided under subparagraph (B), the
22 election rate points allocated to each candidate



1 shall be tallied and the candidate with the
2 highest election rate point total shall be
3 declared the winner.

4 (D) If there is a tie between two or more candidates
5 in the election rate point total, the candidate
6 who is allocated the highest election rate points
7 from the precinct with the largest voter turnout
8 shall be declared the winner.

9 (2) In the case of an election involving a federal office
10 or an elective office where the voters in the entire
11 State or in an entire county are allowed to cast a
12 vote, the winner shall be declared as follows:

13 (A) For each representative district in the State or
14 county, as the case may be, an election rate
15 point shall be calculated by dividing the total
16 voter turnout in that representative district by
17 the total voter turnout in the state, county, or
18 federal office district, as the case may be;
19 provided that for purposes of this subparagraph:

20 (i) The absentee votes cast for a statewide,
21 countywide, or federal office shall be
22 treated as a separate representative



1 district and the election rate point shall
 2 be calculated by dividing the total absentee
 3 votes cast for the statewide, countywide, or
 4 federal office by the total voter turnout in
 5 the state, county, or federal office
 6 district, as the case may be.

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

18 All election rate points shall be expressed as
 19 decimal fractions rounded to the nearest hundred
 20 thousandth.

21 (B) The candidate with the highest number of votes in
 22 a representative district shall be allocated the



1 election rate point calculated under subparagraph
2 (A) for that district. In the event that two or
3 more persons are tied in receiving the highest
4 number of votes for that district, the election
5 rate point shall be equally apportioned among
6 those candidates involved in that district tie.

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

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

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

21 "(d) For purposes of this subpart, whenever a report is
22 required to be filed with the commission, "filed" means



1 electronically filed on the commission's electronic filing
2 system by the date and time specified for the filing of the
3 report by the:

4 (1) Candidate or the committee of a candidate who is
5 seeking election to the:

- 6 (A) Office of governor;
- 7 (B) Office of lieutenant governor;
- 8 (C) Office of mayor;
- 9 (D) Office of prosecuting attorney;
- 10 (E) County council;
- 11 (F) Senate;
- 12 (G) House of representatives; or
- 13 (H) Office of Hawaiian affairs; or
- 14 [~~I~~] ~~Board of education; or~~

15 (2) Noncandidate committee required to be registered with
16 the commission pursuant to section 11-194."

17 SECTION 12. Section 11-209, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) From January 1 of the year of any primary, special,
20 or general election, the total expenditures for each election
21 for candidates who voluntarily agree to limit their campaign
22 expenditures, inclusive of all expenditures made or authorized



1 by the candidate alone and all campaign treasurers and
2 committees in the candidate's behalf, shall not exceed the
3 following amounts expressed respectively multiplied by the
4 number of voters in the last preceding general election
5 registered to vote in each respective voting district:

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

13 SECTION 13. Section 11-218, Hawaii Revised Statutes, is
14 amended by amending subsection (d) to read as follows:

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

18 SECTION 14. Section 12-5, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) Nomination papers for candidates for members of
21 Congress, governor, and lieutenant governor[~~, and the board of~~
22 ~~education~~] shall be signed by not [~~less~~] fewer than twenty-five



1 registered voters of the State or of the Congressional district
2 [~~or school board district~~] from which the candidates are running
3 in the case of candidates for the United States House of
4 Representatives [~~or for the board of education~~]."

5 SECTION 15. Section 26-35.5, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

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

20 SECTION 16. Section 84-17, Hawaii Revised Statutes, is
21 amended by amending subsection (d) to read as follows:



1 "(d) The financial disclosure statements of the following
2 persons shall be public records and available for inspection and
3 duplication:

4 (1) The governor, the lieutenant governor, the members of
5 the legislature, candidates for and delegates to the
6 constitutional convention, [~~the members of the board~~
7 ~~of education,~~] the trustees of the office of Hawaiian
8 affairs, and candidates for state elective offices;

9 (2) The directors of the state departments and their
10 deputies, regardless of the titles by which the
11 foregoing persons are designated; provided that with
12 respect to the department of the attorney general, the
13 foregoing shall apply only to the attorney general and
14 the first deputy attorney general;

15 (3) The administrative director of the State;

16 (4) The president, the vice presidents, the assistant vice
17 presidents, the chancellors, and the provosts of the
18 University of Hawaii;

19 (5) The members of the board of education, superintendent,
20 the deputy superintendent, the state librarian, and
21 the deputy state librarian of the department of
22 education;



1 (6) The administrative director and the deputy director of
2 the courts; and

3 (7) The administrator and the assistant administrator of
4 the office of Hawaiian affairs."

5 SECTION 17. Section 84-41, Hawaii Revised Statutes, is
6 amended to read as follows:

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

13 SECTION 18. Section 88-21, Hawaii Revised Statutes, is
14 amended by amending the definition of "elective officer" or
15 "elective official" to read as follows:

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



1 SECTION 19. Section 302A-447, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~§~~302A-447~~§~~] **State student council.** (a) There is
4 established within the department for administrative purposes
5 the state student council, which shall consist of representation
6 from each departmental school district.

7 (b) [~~The~~] Pursuant to article X, section 2 of the state
8 constitution, the council shall [~~determine whether it shall~~
9 directly select the student member of the board or whether it
10 shall run an] hold a yearly election, with all secondary public
11 schools participating, to select [~~that individual.~~] the student
12 member of the board. The council shall establish procedures
13 governing the election of the student member of the board,
14 including any necessary qualifications for candidates.

15 (c) The council shall establish policies and procedures
16 governing its operations, including the selection and number of
17 council members, without regard to the public notice, public
18 hearing, and gubernatorial approval requirements of chapter 91,
19 but subject to the open meeting requirements of chapter 92.

20 (d) The state student council shall cooperate with the
21 student conference committee established under section 317-2 in



1 planning the annual secondary school students conference
2 established under chapter 317."

3 SECTION 20. Section 302A-1101, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§302A-1101 Department of education; board of education;**
6 **superintendent of education.** (a) There shall be a principal
7 executive department to be known as the department of education,
8 which shall be headed by an [elected] appointed policy-making
9 board to be known as the board of education. The board shall
10 have power in accordance with law to formulate statewide
11 educational policy, adopt student performance standards and
12 assessment models, monitor school success, and to appoint the
13 superintendent of education as the chief executive officer of
14 the public school system.

15 (b) The board shall appoint, and may remove, the
16 superintendent by a majority vote of its members. The
17 superintendent:

18 (1) May be appointed without regard to the state residency
19 provisions of section 78-1(b);

20 (2) May be appointed for a term of up to four years; and

21 (3) May be terminated only for cause.



1 ~~[(c) The board shall invite the senior military commander~~
2 ~~in Hawaii to appoint a nonvoting military representative to the~~
3 ~~board, who shall serve for a two-year term without compensation.~~
4 ~~As the liaison to the board, the military representative shall~~
5 ~~advise the board regarding state education policies and~~
6 ~~departmental actions affecting students who are enrolled in~~
7 ~~public schools as family members of military personnel. The~~
8 ~~military representative shall carry out these duties as part of~~
9 ~~the representative's official military duties and shall be~~
10 ~~guided by applicable state and federal statutes, regulations,~~
11 ~~and policies and may be removed only for cause by a majority~~
12 ~~vote of the members of the board.~~

13 ~~(d)]~~ (c) The board shall appoint the charter school review
14 panel, which shall serve as the charter authorizer for charter
15 schools, with the power and duty to issue charters, oversee and
16 monitor charter schools, hold charter schools accountable for
17 their performance, and revoke charters."

18 SECTION 21. Section 302A-1110, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "~~[+]§302A-1110[+]~~ **Educational districts not applicable.**
21 The educational districts established by section 4-1 shall not
22 be applicable to, nor alter, the school board or departmental



1 school districts, established by section [~~13-17~~] 302A-B, or the
2 school districts established for administrative purposes by the
3 department."

4 SECTION 22. Section 17-6, Hawaii Revised Statutes, is
5 repealed.

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

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

13 ~~(1) If it occurs not later than on the sixtieth day prior~~
14 ~~to the next succeeding general election, the vacancy~~
15 ~~shall be filled for the unexpired term at the next~~
16 ~~succeeding general election. The chief election~~
17 ~~officer shall issue a proclamation designating the~~
18 ~~election for filling the vacancy. All candidates for~~
19 ~~the unexpired term shall file nomination papers not~~
20 ~~later than 4:30 p.m. on the fiftieth day prior to the~~
21 ~~general election (but if such day is a Saturday,~~
22 ~~Sunday, or holiday then not later than 4:30 p.m. on~~



1 ~~the first working day immediately preceding) and shall~~
2 ~~be elected in accordance with this title. Pending the~~
3 ~~election the governor shall make a temporary~~
4 ~~appointment to fill the vacancy and the person so~~
5 ~~appointed shall serve until the election of the person~~
6 ~~duly elected to fill such vacancy.~~

7 ~~(2) If it occurs after the sixtieth day prior to the next~~
8 ~~succeeding general election, the governor shall make~~
9 ~~an appointment to fill the vacancy for the unexpired~~
10 ~~term.~~

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

16 SECTION 23. Chapter 13, Hawaii Revised Statutes, is
17 repealed.

18 SECTION 24. Notwithstanding the requirements of section
19 302A-E, Hawaii Revised Statutes, the terms of the members of the
20 board of education that expire on November 4, 2014 shall instead
21 expire on June 30, 2012, upon the effective date of this Act.

22



1 amendment authorizing an appointed board of education
2 in compliance with article XVII, section 3, of the
3 Constitution of the State of Hawaii; provided that a
4 constitutional amendment allowing the board of
5 education student member to vote on all matters,
6 except for fiscal and personnel matters, and making
7 the position subject to an election held by the Hawaii
8 state student council, with all secondary public
9 schools participating in compliance with article XVII,
10 section 3, of the Constitution of the State of Hawaii
11 is not also ratified; and

12 (3) Part IV of this Act shall be effective upon the
13 ratification of a constitutional amendment authorizing
14 an appointed board of education in compliance with
15 article XVII, section 3, of the Constitution of the
16 State of Hawaii and the ratification of a
17 constitutional amendment allowing the board of
18 education student member to vote on all matters,
19 except for fiscal and personnel matters, and making
20 the position subject to an election held by the Hawaii
21 state student council, with all secondary public



Report Title:

Board of Education; Candidate Nomination Commission

Description:

Establishes implementing provisions, in the alternative, for constitutional amendments that (1) change the method of selection of the board of education from election to appointment by the governor, and (2) authorize the board of education student member to vote on all matters before the board, except for those matters relating to fiscal and personnel issues, and requires the Hawaii student council to hold an election, with all secondary public schools participating, to elect the student member, upon ratification of appropriate constitutional amendments. (SD2)

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

