
A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1 SECTION 1. The legislature finds that the lines of
2 accountability and responsibility in the public education system
3 are muddled at best, and dysfunctional and harmful to our keiki
4 at worst. Currently, the Governor, the Legislature, and the
5 Board of Education exercise influence over the public education
6 system in Hawai`i. Even though all three are elected by the
7 people of Hawai`i, none are directly accountable to each other,
8 and because each currently influences public education without
9 accountability to each other, in reality, none of the three can
10 fairly be accountable to the people who elected them with
11 respect to public education. The legislature finds that
12 eliminating the board of education will increase the
13 accountability of the department of education, improve
14 operations of the department, and clarify the accountability of
15 leaders with respect to public education.

16 The legislature also finds that even though the Board of
17 Education is not entitled to draw a salary by law, the Board is
18 entitled to have expenses compensated. The legislature further



1 finds that the Board of Education's allocations of the
2 Department of Education's budget for the past few years has been
3 as follows, according to the Department of Education:
4 \$584,735 and \$47,551 in school year 2009-2010, to date, \$724,817
5 in school year 2008-2009, and \$774,817 in school year 2007-2008.
6 With the abolishment of the Board of Education, those amounts
7 could represent great savings, and such moneys could be
8 reallocated to the Department of Education to help with budget
9 cuts.

10 The purpose of this Act is to abolish the Board of
11 Education.

12 SECTION 2. Chapter 13, Hawaii Revised Statutes, is
13 repealed.

14 SECTION 3. Section 17-6, Hawaii Revised Statutes, is
15 repealed.

16 [~~"§17-6 Board of education members. (a) The governor~~
17 ~~shall make an appointment to fill any vacancy in the membership~~
18 ~~of the board of education for the unexpired term of that vacancy~~
19 ~~whenever a vacancy occurs and the term of that vacancy ends at~~
20 ~~the time of the next succeeding general election.~~

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



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

17 ~~(2) If it occurs after the sixtieth day prior to the next~~
18 ~~succeeding general election, the governor shall make~~
19 ~~an appointment to fill the vacancy for the unexpired~~
20 ~~term.~~

21 ~~(c) All appointments made by the governor under this~~
22 ~~section shall be made without consideration of the appointee's~~



1 ~~party affiliation or preference or nonpartisanship, however the~~
2 ~~persons so appointed shall meet the residency requirement~~
3 ~~specified in section 13-1.]"~~

4 SECTION 4. Section 93-5, Hawaii Revised Statutes, is
5 repealed.

6 [~~"§93-5 Rules. The board of education may make such rules~~
7 ~~as are necessary to carry out the purposes of this part."~~]

8 SECTION 5. Section 302A-463, Hawaii Revised Statutes, is
9 repealed.

10 "~~[§302A-463] Advisory commission on gender equity in~~
11 ~~sports. (a) There shall be established within the department~~
12 ~~of education for administrative purposes only, an advisory~~
13 ~~commission on gender equity in sports. The advisory commission~~
14 ~~may consist of seven members appointed by the superintendent of~~
15 ~~education who shall ensure that the advisory commission~~
16 ~~represents, to the maximum extent possible, the gender, racial,~~
17 ~~and ethnic diversity of the State.~~

18 ~~(b) The advisory commission shall determine if any school~~
19 ~~does not exhibit substantial progress toward compliance with~~
20 ~~Public Law 92-318, Title IX, of the federal Education Amendments~~
21 ~~of 1972 and section 302A-1001. Based upon its findings and~~
22 ~~determinations, the advisory commission may make recommendations~~



1 ~~to the board of education, the superintendent of education, and~~
2 ~~the legislature.~~

3 ~~—— (c) The advisory commission shall expire three years after~~
4 ~~July 1, 2000."]~~

5 SECTION 6. Section 302A-1106.5, Hawaii Revised Statutes,
6 is repealed.

7 ~~["~~§302A-1106.5~~ **Board of education; community meetings.**~~

8 ~~The board shall hold not less than two community meetings~~
9 ~~annually in each departmental school district in addition to~~
10 ~~their regular meetings to discuss and receive input from the~~
11 ~~community on public education and public library issues. The~~
12 ~~board chairperson shall designate board members to attend the~~
13 ~~community meetings. These community meetings shall not be held~~
14 ~~for the purpose of formulating educational policy. The~~
15 ~~community meetings shall be exempt from sections 92-2.5, 92-7,~~
16 ~~92-9, and 92-41, provided that the board shall give written~~
17 ~~public notice of each community meeting. The meeting notice~~
18 ~~shall indicate the date, time, and place of the meeting, and~~
19 ~~shall be filed in the office of the lieutenant governor and in~~
20 ~~the board's office for public inspection six calendar days~~
21 ~~before the meeting. The notice shall also be posted at the site~~
22 ~~of the meeting."]~~



1 SECTION 7. Section 302A-1105, Hawaii Revised Statutes, is
2 repealed.

3 [~~"§302A-1105 Compensation; expenses. Board of education~~
4 ~~members shall be allowed:~~

5 ~~(1) Compensation at the rate of \$100 per day for each~~
6 ~~day's actual attendance at meetings;~~

7 ~~(2) Transportation fares between islands and abroad; and~~

8 ~~(3) Personal expenses at the rates specified by the board~~
9 ~~while attending board meetings or while on official~~
10 ~~business as authorized by the chairperson, when the~~
11 ~~board meetings or official business require a board~~
12 ~~member to leave the island upon which the board member~~
13 ~~resides."]~~

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

16 "**§11-157 In case of tie.** In case of the failure of an
17 election by reason of the equality of vote between two or more
18 candidates, the tie shall be decided by the chief election
19 officer or county clerk in the case of county elections in
20 accordance with the following procedure:

21 (1) In the case of an election involving a seat for the
22 senate, house of representatives [~~board of~~



1 ~~education,~~] or county council where only voters within
2 a specified district are allowed to cast a vote, the
3 winner shall be declared as follows:

4 (A) For each precinct in the affected district, an
5 election rate point shall be calculated by
6 dividing the total voter turnout in that precinct
7 by the total voter turnout in the district. For
8 the purpose of this subparagraph, the absentee
9 votes cast for the affected district shall be
10 treated as a precinct. The election rate point
11 shall be calculated by dividing the total
12 absentee votes cast for the affected district by
13 the total voter turnout in that district. All
14 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 precinct shall be allocated the election rate
19 point calculated under subparagraph (A) for that
20 precinct. In the event that two or more persons
21 are tied in receiving the highest number of votes
22 for that precinct, the election rate point shall



1 be equally apportioned among those candidates
2 involved in that precinct tie.

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

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

19 (A) For each representative district in the State or
20 county, as the case may be, an election rate
21 point shall be calculated by dividing the total
22 voter turnout in that representative district by



1 the total voter turnout in the state, county, or
2 federal office district, as the case may be;
3 provided that for purposes of this subparagraph:

4 (i) The absentee votes cast for a statewide,
5 countywide, or federal office shall be
6 treated as a separate representative
7 district and the election rate point shall
8 be calculated by dividing the total absentee
9 votes cast for the statewide, countywide, or
10 federal office by the total voter turnout in
11 the state, county, or federal office
12 district, as the case may be.

13 (ii) The overseas votes cast for any election in
14 the State for a federal office shall be
15 treated as a separate representative
16 district and the election rate point shall
17 be calculated by dividing the total number
18 of overseas votes cast for the affected
19 federal office by the total voter turnout in
20 the affected federal office district. The
21 term "overseas votes" means those votes cast



1 by absentee ballots for a presidential
2 election as provided in section 15-3.

3 All 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 representative district shall be allocated the
8 election rate point calculated under subparagraph
9 (A) for that district. In the event that two or
10 more persons are tied in receiving the highest
11 number of votes for that district, the election
12 rate point shall be equally apportioned among
13 those candidates involved in that district tie.

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

4 SECTION 9. Section 11-195, Hawaii Revised Statutes, is
5 amended by amending subsection (d) to read as follows:

6 "(d) For purposes of this subpart, whenever a report is
7 required to be filed with the commission, "filed" means
8 electronically filed on the commission's electronic filing
9 system by the date and time specified for the filing of the
10 report by the:

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

- 13 (A) Office of governor;
- 14 (B) Office of lieutenant governor;
- 15 (C) Office of mayor;
- 16 (D) Office of prosecuting attorney;
- 17 (E) County council;
- 18 (F) Senate;
- 19 (G) House of representatives;
- 20 (H) Office of Hawaiian affairs; or
- 21 [~~(I) Board of education; or~~]



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

3 SECTION 10. Section 11-209, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "**§11-209 Campaign expenditures; limits as to amounts.** (a)

6 From January 1 of the year of any primary, special, or general
7 election, the total expenditures for each election for
8 candidates who voluntarily agree to limit their campaign
9 expenditures, inclusive of all expenditures made or authorized
10 by the candidate alone and all campaign treasurers and
11 committees in the candidate's behalf, shall not exceed the
12 following amounts expressed respectively multiplied by the
13 number of voters in the last preceding general election
14 registered to vote in each respective voting district:

15 (1) For the office of governor--\$2.50;

16 (2) For the office of lieutenant governor--\$1.40;

17 (3) For the office of mayor--\$2.00;

18 (4) For the offices of state senator, state
19 representative, and county council member--\$1.40; and

20 (5) For [~~the offices of the board of education and~~] all
21 other offices--20 cents."



1 SECTION 11. Section 11-218, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§11-218 Candidate funding; amounts available.** (a) For
4 the office of governor, lieutenant governor, or mayor, the
5 maximum amount of public funds available to a candidate in any
6 election shall not exceed ten per cent of the total expenditure
7 limit as determined under section 11-209 for each election for
8 each office listed in this subsection.

9 (b) For the office of state senator, state representative,
10 county council member, and prosecuting attorney, the maximum
11 amount of public funds available to a candidate in any election
12 shall be fifteen per cent of the total expenditure limit as
13 determined under section 11-209 for each election for each
14 office listed in this subsection.

15 (c) For the office of Hawaiian affairs, the maximum amount
16 of public funds available to a candidate shall not exceed \$1,500
17 in any election year.

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

21 (e) Each candidate who qualified for the maximum amount of
22 public funding in any primary election and who is a candidate



1 for a subsequent general election shall apply with the
2 commission to be qualified to receive the maximum amount of
3 public funds as provided in this section for the respective
4 election. For purposes of this section, "qualified" means
5 meeting the qualifying campaign contribution requirements of
6 section 11-219."

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

9 "**§12-5 Nomination papers: number of signers.** (a)
10 Nomination papers for candidates for members of Congress,
11 governor, and lieutenant governor [~~, and the board of education~~]
12 shall be signed by not less than twenty-five registered voters
13 of the State or of the Congressional district [~~or school board~~
14 ~~district~~] from which the candidates are running in the case of
15 candidates for the United States House of Representatives [~~or~~
16 ~~for the board of education~~]."

17 SECTION 13. Section 26-12, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§26-12 Department of education.** The department of
20 education shall be headed by [~~an executive board to be known as~~
21 ~~the board of education~~] a superintendent appointed by the
22 governor, as provided by law.



1 ~~[Under policies established by the board, the]~~ The
2 superintendent shall administer programs of education and public
3 instruction throughout the State, including education at the
4 preschool, primary, and secondary school levels, adult
5 education, school library services, health education and
6 instruction (not including dental health treatment transferred
7 to the department of health), and such other programs as may be
8 established by law. The state librarian, under policies
9 established by the ~~[board of education]~~ superintendent, shall be
10 responsible for the administration of programs relating to
11 public library services and transcribing services for the blind.

12 The functions and authority heretofore exercised by the
13 department of education (except dental health treatment
14 transferred to the department of health), library of Hawaii,
15 Hawaii county library, Maui county library, and the transcribing
16 services program of the bureau of sight conservation and work
17 with the blind, as heretofore constituted are transferred to the
18 public library system established by this chapter.

19 The management contract between the board of supervisors of
20 the county of Kauai and the Kauai public library association
21 shall be terminated at the earliest time after November 25,
22 1959, permissible under the terms of the contract and the



1 provisions of this paragraph shall constitute notice of
2 termination, and the functions and authority heretofore
3 exercised by the Kauai county library as heretofore constituted
4 and the Kauai public library association over the public
5 libraries in the county of Kauai shall thereupon be transferred
6 to the public library system established by this chapter.

7 The management contracts between the trustees of the
8 library of Hawaii and the Friends of the Library of Hawaii, and
9 between the library of Hawaii and the Hilo library and reading
10 room association, shall be terminated at the earliest time after
11 November 25, 1959, permissible under the terms of the contracts,
12 and the provisions of this paragraph shall constitute notice of
13 termination.

14 Upon the termination of the contracts, the State or the
15 counties shall not enter into any library management contracts
16 with any private association; provided that in providing library
17 services the board of education may enter into contracts
18 approved by the governor for the use of lands, buildings,
19 equipment, and facilities owned by any private association.

20 Notwithstanding any law to the contrary, the [~~board of~~
21 ~~education~~] superintendent may establish, specify the membership
22 number and quorum requirements for, appoint members to, and



1 disestablish a commission in each county to be known as the
2 library advisory commission, which shall in each case sit in an
3 advisory capacity [~~to the board of education~~] on matters
4 relating to public library services in their respective county."

5 SECTION 14. Section 26-35.5, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 **"§26-35.5 Members of boards and commissions; immunity from
8 or indemnification for civil liability; defense of members. (a)**

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



1 SECTION 15. Section 26-52, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§26-52 Department heads and executive officers.** The
4 salaries of the following state officers shall be as follows:

5 (1) ~~[The salary of the superintendent of education shall~~
6 ~~be set by the board of education at a rate no greater~~
7 ~~than \$150,000 a year;~~

8 ~~(2)]~~ The salary of the president of the University of
9 Hawaii shall be set by the board of regents;

10 ~~[(3)]~~ (2) Effective July 1, 2004, the salaries of all
11 department heads or executive officers of the
12 departments of accounting and general services,
13 agriculture, attorney general, budget and finance,
14 business, economic development, and tourism, commerce
15 and consumer affairs, education, Hawaiian home lands,
16 health, human resources development, human services,
17 labor and industrial relations, land and natural
18 resources, public safety, taxation, and transportation
19 shall be as last recommended by the executive salary
20 commission. Effective July 1, 2007, and every six
21 years thereafter, the salaries shall be as last



1 recommended by the commission on salaries pursuant to
2 section 26-56, unless rejected by the legislature; and
3 (4) The salary of the adjutant general shall be \$85,302 a
4 year. Effective July 1, 2007, and every six years
5 thereafter, the salary of the adjutant general shall
6 be as last recommended by the commission on salaries
7 pursuant to section 26-56, unless rejected by the
8 legislature, except that if the state salary is in
9 conflict with the pay and allowance fixed by the
10 tables of the regular army or air force of the United
11 States, the latter shall prevail."

12 SECTION 16. Section 76-11, Hawaii Revised Statutes, is
13 amended by amending the definition of "employer" or "public
14 employer" to read as follows:

15 ""Employer" or "public employer" means the governor in the
16 case of the State, the respective mayors in the case of the
17 counties, the chief justice of the supreme court in the case of
18 the judiciary, [~~the board of education in the case of the~~
19 ~~department of education,~~] the board of regents in the case of
20 the University of Hawaii, the Hawaii health systems corporation
21 board in the case of the Hawaii health systems corporation, and
22 any individual who represents one of the employers or acts in



1 their interest in dealing with public employees. In the case of
2 the judiciary, the administrative director of the courts shall
3 be the employer in lieu of the chief justice for purposes which
4 the chief justice determines would be prudent or necessary to
5 avoid conflict."

6 SECTION 17. Section 76-16, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) The civil service to which this chapter applies shall
9 comprise all positions in the State now existing or hereafter
10 established and embrace all personal services performed for the
11 State, except the following:

12 .(1) Commissioned and enlisted personnel of the Hawaii
13 national guard as such, and positions in the Hawaii
14 national guard that are required by state or federal
15 laws or regulations or orders of the national guard to
16 be filled from those commissioned or enlisted
17 personnel;

18 (2) Positions filled by persons employed by contract where
19 the director of human resources development has
20 certified that the service is special or unique or is
21 essential to the public interest and that, because of
22 circumstances surrounding its fulfillment, personnel



- 1 to perform the service cannot be obtained through
2 normal civil service recruitment procedures. Any such
3 contract may be for any period not exceeding one year;
- 4 (3) Positions that must be filled without delay to comply
5 with a court order or decree if the director
6 determines that recruitment through normal recruitment
7 civil service procedures would result in delay or
8 noncompliance, such as the Felix-Cayetano consent
9 decree;
- 10 (4) Positions filled by the legislature or by either house
11 or any committee thereof;
- 12 (5) Employees in the office of the governor and office of
13 the lieutenant governor, and household employees at
14 Washington Place;
- 15 (6) Positions filled by popular vote;
- 16 (7) Department heads, officers, and members of any board,
17 commission, or other state agency whose appointments
18 are made by the governor or are required by law to be
19 confirmed by the senate;
- 20 (8) Judges, referees, receivers, masters, jurors, notaries
21 public, land court examiners, court commissioners, and



1 attorneys appointed by a state court for a special
2 temporary service;

- 3 (9) One bailiff for the chief justice of the supreme court
4 who shall have the powers and duties of a court
5 officer and bailiff under section 606-14; one
6 secretary or clerk for each justice of the supreme
7 court, each judge of the intermediate appellate court,
8 and each judge of the circuit court; one secretary for
9 the judicial council; one deputy administrative
10 director of the courts; three law clerks for the chief
11 justice of the supreme court, two law clerks for each
12 associate justice of the supreme court and each judge
13 of the intermediate appellate court, one law clerk for
14 each judge of the circuit court, two additional law
15 clerks for the civil administrative judge of the
16 circuit court of the first circuit, two additional law
17 clerks for the criminal administrative judge of the
18 circuit court of the first circuit, one additional law
19 clerk for the senior judge of the family court of the
20 first circuit, two additional law clerks for the civil
21 motions judge of the circuit court of the first
22 circuit, two additional law clerks for the criminal



1 motions judge of the circuit court of the first
2 circuit, and two law clerks for the administrative
3 judge of the district court of the first circuit; and
4 one private secretary for the administrative director
5 of the courts, the deputy administrative director of
6 the courts, each department head, each deputy or first
7 assistant, and each additional deputy, or assistant
8 deputy, or assistant defined in paragraph (16);

9 (10) First deputy and deputy attorneys general, the
10 administrative services manager of the department of
11 the attorney general, one secretary for the
12 administrative services manager, an administrator and
13 any support staff for the criminal and juvenile
14 justice resources coordination functions, and law
15 clerks;

16 (11) (A) Teachers, principals, vice-principals, complex
17 area superintendents, deputy and assistant
18 superintendents, other certificated personnel,
19 not more than twenty noncertificated
20 administrative, professional, and technical
21 personnel not engaged in instructional work;



1 (B) Effective July 1, 2003, teaching assistants,
2 educational assistants, bilingual/bicultural
3 school-home assistants, school psychologists,
4 psychological examiners, speech pathologists,
5 athletic health care trainers, alternative school
6 work study assistants, alternative school
7 educational/supportive services specialists,
8 alternative school project coordinators, and
9 communications aides in the department of
10 education;

11 (C) The special assistant to the state librarian and
12 one secretary for the special assistant to the
13 state librarian; and

14 (D) Members of the faculty of the University of
15 Hawaii, including research workers, extension
16 agents, personnel engaged in instructional work,
17 and administrative, professional, and technical
18 personnel of the university;

19 (12) Employees engaged in special, research, or
20 demonstration projects approved by the governor;

21 (13) Positions filled by inmates, kokuas, patients of state
22 institutions, persons with severe physical or mental



1 handicaps participating in the work experience
2 training programs, and students and positions filled
3 through federally funded programs that provide
4 temporary public service employment such as the
5 federal Comprehensive Employment and Training Act of
6 1973;

7 (14) A custodian or guide at Iolani Palace, the Royal
8 Mausoleum, and Hulihee Palace;

9 (15) Positions filled by persons employed on a fee,
10 contract, or piecework basis, who may lawfully perform
11 their duties concurrently with their private business
12 or profession or other private employment and whose
13 duties require only a portion of their time, if it is
14 impracticable to ascertain or anticipate the portion
15 of time to be devoted to the service of the State;

16 (16) Positions of first deputies or first assistants of
17 each department head appointed under or in the manner
18 provided in section 6, Article V, of the State
19 Constitution; three additional deputies or assistants
20 either in charge of the highways, harbors, and
21 airports divisions or other functions within the
22 department of transportation as may be assigned by the



1 director of transportation, with the approval of the
2 governor; four additional deputies in the department
3 of health, each in charge of one of the following:
4 behavioral health, environmental health, hospitals,
5 and health resources administration, including other
6 functions within the department as may be assigned by
7 the director of health, with the approval of the
8 governor; an administrative assistant to the state
9 librarian; and an administrative assistant to the
10 superintendent of education;

11 (17) Positions specifically exempted from this part by any
12 other law; provided that all of the positions defined
13 by paragraph (9) shall be included in the position
14 classification plan;

15 (18) Positions in the state foster grandparent program and
16 positions for temporary employment of senior citizens
17 in occupations in which there is a severe personnel
18 shortage or in special projects;

19 (19) Household employees at the official residence of the
20 president of the University of Hawaii;

21 (20) Employees in the department of education engaged in
22 the supervision of students during meal periods in the



- 1 distribution, collection, and counting of meal
2 tickets, and in the cleaning of classrooms after
3 school hours on a less than half-time basis;
- 4 (21) Employees hired under the tenant hire program of the
5 Hawaii public housing authority; provided that not
6 more than twenty-six per cent of the authority's work
7 force in any housing project maintained or operated by
8 the authority shall be hired under the tenant hire
9 program;
- 10 (22) Positions of the federally funded expanded food and
11 nutrition program of the University of Hawaii that
12 require the hiring of nutrition program assistants who
13 live in the areas they serve;
- 14 (23) Positions filled by severely handicapped persons who
15 are certified by the state vocational rehabilitation
16 office that they are able to perform safely the duties
17 of the positions;
- 18 [~~(24) One public high school student to be selected by the~~
19 ~~Hawaii state student council as a nonvoting member on~~
20 ~~the board of education as authorized by the State~~
21 ~~Constitution;~~



1 ~~(25)~~] (24) Sheriff, first deputy sheriff, and second deputy
2 sheriff;

3 ~~[(26)]~~ (25) A gender and other fairness coordinator hired by
4 the judiciary; and

5 ~~[(27)]~~ (26) Positions in the Hawaii national guard youth and
6 adult education programs.

7 The director shall determine the applicability of this
8 section to specific positions.

9 Nothing in this section shall be deemed to affect the civil
10 service status of any incumbent as it existed on July 1, 1955."

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

13 (d) The financial disclosure statements of the following
14 persons shall be public records and available for inspection and
15 duplication:

16 (1) The governor, the lieutenant governor, the members of
17 the legislature, candidates for and delegates to the
18 constitutional convention, [~~the members of the board~~
19 ~~of education,~~] the trustees of the office of Hawaiian
20 affairs, and candidates for state elective offices;

21 (2) The directors of the state departments and their
22 deputies, regardless of the titles by which the



1 deputies. This part does not apply to any other officer or
2 employee of the State."

3 SECTION 20. Section 88-21, Hawaii Revised Statutes, is
4 amended by amending the definition of "elective officer" or
5 "elective official" to read as follows:

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

13 SECTION 21. Section 89-2, Hawaii Revised Statutes, is
14 amended by amending the definition of "employer" or "public
15 employer" to read as follows:

16 "**§89-2 Definitions.** As used in this chapter:

17 "Employer" or "public employer" means the governor in the
18 case of the State, the respective mayors in the case of the
19 counties, the chief justice of the supreme court in the case of
20 the judiciary, [~~the board of education in the case of the~~
21 ~~department of education,~~] the board of regents in the case of
22 the University of Hawaii, the Hawaii health systems corporation



1 board in the case of the Hawaii health systems corporation, and
2 any individual who represents one of these employers or acts in
3 their interest in dealing with public employees. In the case of
4 the judiciary, the administrative director of the courts shall
5 be the employer in lieu of the chief justice for purposes which
6 the chief justice determines would be prudent or necessary to
7 avoid conflict."

8 SECTION 22. Section 89-6, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§89-6 Appropriate bargaining units.** [*Repeal and*
11 *reenactment on July 1, 2010. L Sp 2008, c 5, §1.*] (a) All
12 employees throughout the State within any of the following
13 categories shall constitute an appropriate bargaining unit:
14 (1) Nonsupervisory employees in blue collar positions;
15 (2) Supervisory employees in blue collar positions;
16 (3) Nonsupervisory employees in white collar positions;
17 (4) Supervisory employees in white collar positions;
18 (5) Teachers and other personnel of the department of
19 education under the same pay schedule, including part-
20 time employees working less than twenty hours a week
21 who are equal to one-half of a full-time equivalent;



- 1 (6) Educational officers and other personnel of the
2 department of education under the same pay schedule;
- 3 (7) Faculty of the University of Hawaii and the community
4 college system;
- 5 (8) Personnel of the University of Hawaii and the
6 community college system, other than faculty;
- 7 (9) Registered professional nurses;
- 8 (10) Institutional, health, and correctional workers;
- 9 (11) Firefighters;
- 10 (12) Police officers; and
- 11 (13) Professional and scientific employees, who cannot be
12 included in any of the other bargaining units.
- 13 (b) Because of the nature of the work involved and the
14 essentiality of certain occupations that require specialized
15 training, supervisory employees who are eligible for inclusion
16 in bargaining units (9) through (13) shall be included in
17 bargaining units (9) through (13), respectively, instead of
18 bargaining unit (2) or (4).
- 19 (c) The classification systems of each jurisdiction shall
20 be the bases for differentiating blue collar from white collar
21 employees, professional from institutional, health and
22 correctional workers, supervisory from nonsupervisory employees,



1 teachers from educational officers, and faculty from nonfaculty.
2 In differentiating supervisory from nonsupervisory employees,
3 class titles alone shall not be the basis for determination.
4 The nature of the work, including whether a major portion of the
5 working time of a supervisory employee is spent as part of a
6 crew or team with nonsupervisory employees, shall be considered
7 also.

8 (d) For the purpose of negotiating a collective bargaining
9 agreement, the public employer of an appropriate bargaining unit
10 shall mean the governor together with the following employers:

11 (1) For bargaining units (1), (2), (3), (4), (9), (10),
12 and (13), the governor shall have six votes and the
13 mayors, the chief justice, and the Hawaii health
14 systems corporation board shall each have one vote if
15 they have employees in the particular bargaining unit;

16 (2) For bargaining units (11) and (12), the governor shall
17 have four votes and the mayors shall each have one
18 vote;

19 (3) For bargaining units (5) and (6), the governor shall
20 have [~~three~~] two votes, the [~~board of education~~]
21 children's advocate, as determined by law, shall have



1 two votes, and the superintendent of education shall
2 have one vote;

3 (4) For bargaining units (7) and (8), the governor shall
4 have three votes, the board of regents of the
5 University of Hawaii shall have two votes, and the
6 president of the University of Hawaii shall have one
7 vote.

8 Any decision to be reached by the applicable employer group
9 shall be on the basis of simple majority, except when a
10 bargaining unit includes county employees from more than one
11 county. In such case, the simple majority shall include at
12 least one county.

13 (e) In addition to a collective bargaining agreement under
14 subsection (d), each employer may negotiate, independently of
15 one another, supplemental agreements that apply to their
16 respective employees; provided that any supplemental agreement
17 reached between the employer and the exclusive representative
18 shall not extend beyond the term of the applicable collective
19 bargaining agreement and shall not require ratification by
20 employees in the bargaining unit.

21 (f) For the purposes of negotiating contributions by the
22 State and the counties to a voluntary employees' beneficiary



1 association trust as part of a collective bargaining agreement,
2 all prospective retirees who retire on or after July 1, 2005,
3 shall be considered members of the bargaining unit to which they
4 belonged immediately prior to their retirement from the State or
5 the counties.

6 (g) The following individuals shall not be included in any
7 appropriate bargaining unit or be entitled to coverage under
8 this chapter:

9 (1) Elected or appointed official;

10 (2) Member of any board or commission; provided that
11 nothing in this paragraph shall prohibit a member of a
12 collective bargaining unit from serving on a local
13 school board of a charter school or the charter school
14 review panel established under chapter 302B;

15 (3) Top-level managerial and administrative personnel,
16 including the department head, deputy or assistant to
17 a department head, administrative officer, director,
18 or chief of a state or county agency or major
19 division, and legal counsel;

20 (4) Secretary to top-level managerial and administrative
21 personnel under paragraph (3);



- 1 (5) Individual concerned with confidential matters
2 affecting employee-employer relations;
- 3 (6) Part-time employee working less than twenty hours per
4 week, except part-time employees included in
5 bargaining unit (5);
- 6 (7) Temporary employee of three months' duration or less;
- 7 (8) Employee of the executive office of the governor or a
8 household employee at Washington Place;
- 9 (9) Employee of the executive office of the lieutenant
10 governor;
- 11 (10) Employee of the executive office of the mayor;
- 12 (11) Staff of the legislative branch of the State;
- 13 (12) Staff of the legislative branches of the counties,
14 except employees of the clerks' offices of the
15 counties;
- 16 (13) Any commissioned and enlisted personnel of the Hawaii
17 national guard;
- 18 (14) Inmate, kokua, patient, ward, or student of a state
19 institution;
- 20 (15) Student help;
- 21 (16) Staff of the Hawaii labor relations board;



1 (17) Employee of the Hawaii national guard youth challenge
2 academy; or

3 (18) Employee of the office of elections.

4 (h) Where any controversy arises under this section, the
5 board, pursuant to chapter 91, shall make an investigation and,
6 after a hearing upon due notice, make a final determination on
7 the applicability of this section to specific individuals,
8 employees, or positions. "

9 SECTION 23. Section 89C-1.5, Hawaii Revised Statutes, is
10 amended by amending the definition of "appropriate authority" to
11 read as follows:

12 "Appropriate authority" means the governor, the respective
13 mayors, the chief justice of the supreme court, [~~the board of~~
14 ~~education,~~] the board of regents, the Hawaii health [~~systems~~]
15 corporation board, the auditor, the ombudsman, and the director
16 of the legislative reference bureau. These individuals or
17 boards may make adjustments for their respective excluded
18 employees."

19 SECTION 24. Section 171-19, Hawaii Revised Statutes, is
20 amended by amending subsection (c) to read as follows:

21 (c) Notwithstanding the above limitations on use of the
22 proceeds of sale, where the board sells public lands including



1 the buildings thereon once used but no longer necessary for
2 school purposes at the recommendation and request of the [~~board~~]
3 superintendent of education, all net proceeds derived from the
4 sales shall be used for the acquisition of land or for the
5 erection of buildings for school purposes to the extent of an
6 approved building plan in the departmental school district
7 wherein the sales occur. In the absence of any school building
8 program in the district or in the event of any surplus remaining
9 after the completion of buildings constructed pursuant to the
10 approved plan then the proceeds or surplus shall be used in
11 other departmental school districts in the county wherein the
12 sales occur."

13 SECTION 25. Section 202-2, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§202-2 Duties of council.** The workforce development
16 council shall:

17 (1) Prepare and update periodically a comprehensive state
18 plan for workforce development with strategic goals
19 and measurable outcomes. The comprehensive state plan
20 shall include:

21 (A) Strategic goals of workforce development
22 programs, including the identification of the



- 1 desired number of highly skilled workers in the
2 workforce, the number of placements of
3 individuals into higher-skilled jobs, the
4 identification of high-demand areas for job
5 growth, the need for skilled workers in the next
6 five and ten years, and the time frame for
7 training and development;
- 8 (B) Methods to educate the private sector about
9 state, federal, and private financial assistance
10 available for workforce development;
- 11 (C) Methods to facilitate access to workforce
12 development resources, including the reduction of
13 regulatory burdens for employers and employees;
- 14 (D) The creation and improvement of educational
15 opportunities for individuals to learn and
16 develop new skills, including mentoring, project-
17 based learning, and internships;
- 18 (E) Methods to facilitate the department of
19 education's development of curriculum in the
20 public schools to prepare students for employment
21 in the private sector;



- 1 (F) Recommendations to change and improve existing
2 state programs, including the elimination of
3 ineffective programs and the creation of new
4 programs to improve workforce development;
- 5 (G) The identification of resources required,
6 obstacles to overcome, and best practice models
7 to implement the comprehensive state strategic
8 plan; and
- 9 (H) A detailed budget for the comprehensive state
10 plan with a justification for each expenditure;
- 11 (2) Review and assess the coordination between the State's
12 workforce development programs, including programs of
13 the federal government operating in the State, and
14 placements in higher-skilled jobs to expand economic
15 development and diversification; and consider:
- 16 (A) The State's employment and training requirements
17 and resources;
- 18 (B) Practices of employers and unions that impede or
19 facilitate the mobility of workers; and
- 20 (C) The special problems of untrained and
21 inexperienced youth, immigrants, persons with
22 disabilities, welfare clients, single parents,



- 1 disadvantaged minorities, and other groups facing
2 barriers in the labor force;
- 3 (3) Serve as an information clearinghouse for all
4 workforce development programs in the State, including
5 workforce training and education programs;
- 6 (4) Analyze and interpret workforce information,
7 particularly changes which are likely to occur during
8 the next ten years; the specific industries,
9 occupations, and geographic areas which are most
10 likely to be involved; and the social and economic
11 effects of these developments on the State's economy,
12 labor force, communities, families, social structure,
13 and human values;
- 14 (5) Define those areas of unmet workforce and economic
15 development needs and describe how private and public
16 agencies can coordinate their efforts and collaborate
17 with each other to address those needs;
- 18 (6) Recommend to the governor and the legislature, state
19 policies and funding priorities based on local
20 community input that it believes should be adopted by
21 the state government in meeting its workforce
22 development responsibilities to:



- 1 (A) Establish a workforce development system in the
2 State in which resources are pooled and programs
3 are coordinated and streamlined;
- 4 (B) Establish reporting requirements for job
5 placement results by category of occupations in
6 high-demand and high-growth areas;
- 7 (C) Encourage a program of useful research into the
8 State's workforce requirements, development, and
9 utilization; and
- 10 (D) Support recommended workforce policies that
11 promote economic development, diversification,
12 and well-being of the people in this State;
13 provided that the duties and responsibilities of the
14 workforce development council shall not impinge on the
15 constitutional and statutory authority of the board of
16 regents [~~and the board of education,~~] and the
17 statutory authority of the state board for career and
18 technical education;
- 19 (7) Create public awareness and understanding of the
20 State's workforce development plans, policies,
21 programs, and activities, and promoting them as
22 economic investments;



- 1 (8) Submit annual reports of its activities and
2 recommendations to the governor and the legislature,
3 and post the annual reports electronically on the
4 Internet no later than twenty days before the
5 convening of each regular session. Annual reports
6 shall include:
- 7 (A) The status of the comprehensive state plan for
8 workforce development; and
- 9 (B) Information regarding the workforce development
10 programs offered throughout the State, the number
11 of individuals placed in high-demand or high-
12 growth employment through workforce development
13 programs by departments, the type or category of
14 employment garnered, and allocations of state,
15 federal, and other funding to achieve placements
16 into higher-skilled jobs;
- 17 (9) Evaluate the state workforce development plan in terms
18 of how its purposes, goals, and objectives have been
19 carried out throughout the State;
- 20 (10) Provide technical assistance to local workforce
21 development boards and other similar organizations;



- 1 (11) Carry out required functions and duties related to
2 workforce development of any advisory body required or
3 made optional by federal legislation, including the
4 Job Training Partnership Act of 1982, as amended, and
5 the Wagner-Peyser Act of 1933, as amended;
- 6 (12) In accordance with the federal Workforce Investment
7 Act of 1998, Public Law 105-220, assist the governor
8 in the following functions:
- 9 (A) The development of the State's plan for the use
10 of federal workforce investment funds, which is
11 required under Public Law 105-220;
- 12 (B) The development and continuous improvement of the
13 statewide and local workforce investment systems
14 described in subtitle B of Public Law 105-220,
15 and the one-stop delivery systems described in
16 section 134(c) of Public Law 105-220, including:
- 17 (i) The development of linkages referred to in
18 Public Law 105-220, to assure coordination
19 and non-duplication among the programs and
20 activities in section 121(b) of Public Law
21 105-220; and



- 1 (ii) The review of plans prepared by local
2 workforce investment boards for the use of
3 federal workforce investment funds which is
4 required under Public Law 105-220;
- 5 (C) Commenting at least once annually on the measures
6 taken pursuant to section 122(c)(16) of the Carl
7 D. Perkins Vocational and Technical Education
8 Amendments of 1998, Public Law 105-332;
- 9 (D) The designation of local areas as required in
10 section 116 of Public Law 105-220;
- 11 (E) The development of allocation formulas for the
12 distribution of funds for adult employment and
13 training activities and youth activities to local
14 areas as permitted under sections 128(b)(3)(B)(i)
15 and 133(b)(3)(B)(i) of Public Law 105-220;
- 16 (F) The development and continuous improvement of
17 comprehensive state performance measures,
18 including state-adjusted levels of performance,
19 to assess the effectiveness of the workforce
20 investment activities in the State as required
21 under section 136(b)(1) of Public Law 105-220;



- 1 (G) The preparation of the annual report to the
- 2 United States Secretary of Labor described in
- 3 section 136(d)(1) of Public Law 105-220;
- 4 (H) The development of the statewide employment
- 5 statistics system described in section 15(e) of
- 6 the Wagner-Peyser Act; and
- 7 (I) The development of an application for an
- 8 incentive grant under section 503 of Public Law
- 9 105-220; and
- 10 (13) Act as the designated state entity to conduct
- 11 activities relating to occupational and employment
- 12 information for vocational and technical education
- 13 programs in compliance with section 118 of the Carl D.
- 14 Perkins Vocational and Technical Education Amendments
- 15 of 1998, Public Law 105-332."

16 SECTION 26. Section 302A-101, Hawaii Revised Statutes, is
17 amended by repealing the definition of "Board" to read as
18 follows:

19 [~~"Board" means the board of education.~~"]

20 SECTION 27. Section 302A-620, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "[§302A-620] Classification/compensation appeals board;
2 adjustments to classification/compensation plan. (a) There
3 shall be established a classification/compensation appeals board
4 within the department for administrative purposes. The appeals
5 board shall be composed of three members. One member shall be
6 appointed by the [~~board of education~~] children's advocate and
7 one member appointed by the exclusive bargaining unit
8 representing educational officers. The third member shall be
9 appointed by the governor and shall serve as chairperson. No
10 member shall be an employee of the department[~~, a member of the~~
11 ~~board of education,~~] or an employee of the organization
12 representing educational officers. The appeals board shall sit
13 as an appellate body on matters of classification/compensation.
14 All decisions of the appeals board shall be by majority vote and
15 be binding on both parties.

16 (b) The appeals board shall meet biennially every even-
17 numbered year to receive pricing appeals from affected persons
18 and parties relating to the classification/compensation plan.
19 All petitions for appeal shall be filed with the appeals board
20 within twenty days from the date set by the appeals board for
21 receipt of these appeals.



1 The appeals board shall meet on a quarterly basis as needed
2 to receive classification appeals. All petitions for
3 educational officer classification appeals shall be filed with
4 the appeals board within twenty working days from the date of
5 receipt of notification of the classification action or twenty
6 working days from the date of receipt of the superintendent's
7 written decision on the employee's internal administrative
8 review appeal.

9 (c) The appeals board shall function independently of the
10 [~~board of education and~~] the department, but may procure office
11 facilities and clerical assistance from them. Neither the
12 appeals board nor any of its members or staff shall consult with
13 any member of the [~~board of education or~~] department except on
14 notice and opportunity for the appealing employee or the
15 employee's representative to participate.

16 The appeals board shall adopt policies and standards
17 relative to classification/compensation. The appeals board may
18 adopt rules pursuant to chapter 91 for the conduct of appeal
19 hearings.

20 (d) The appeals board shall make whatever adjustments that
21 are necessary to the affected classes where the appeals have
22 been filed in the classification/compensation plan.



1 The appeals board shall hear pricing appeals and complete
2 the final adjustment to the classification/compensation plan by
3 the first Wednesday of December of all even-numbered years.
4 Following the final pricing adjustment to the
5 classification/compensation plan, the superintendent shall
6 submit to the legislature, through the office of the governor, a
7 report setting forth the classification/compensation plan and
8 the cost thereof for its information and approval. The approved
9 classification/compensation plan shall be effective as of July 1
10 of each odd-numbered year.

11 The appeals board shall hear classification appeals on a
12 quarterly basis upon receipt of the appeals. The effective date
13 of the appeals for twelve-month educational officers shall be
14 the first pay period immediately following the receipt of the
15 current position description by the classification/compensation
16 section of the department. The effective date for ten-month
17 officers shall be the beginning of the appropriate semester
18 (September or January).

19 (e) Notwithstanding any other laws to the contrary, each
20 member of the appeals board shall receive \$50 per day for each
21 day on which work is done by them in connection with authorized



1 activities of the appeals board. The cost thereof shall be met
2 by legislative appropriations for the appeals board."

3 SECTION 28. Section 302A-633.5, Hawaii Revised Statutes,
4 is amended to read as follows:

5 "~~§302A-633.5~~ **School personnel engaged in instructional**
6 **work, other than teachers and educational officers.** (a) The
7 ~~[board of education]~~ superintendent shall appoint teaching
8 assistants, educational assistants, bilingual/bicultural school-
9 home assistants, school psychologists, psychological examiners,
10 speech pathologists, athletic health care trainers, alternative
11 school work/study assistants, alternative school
12 educational/supportive services specialists, and alternative
13 school project coordinators as may be required to carry out the
14 purposes of this chapter. The ~~[board]~~ superintendent, in
15 consultation with the department of human resources development,
16 shall prescribe the duties and qualifications for positions,
17 adopt classification systems, classify and fix the compensation
18 of positions accordingly, provide a classification appeals
19 procedure, and establish probationary and other requirements for
20 tenure that protects employees from being disciplined without
21 proper cause.



1 (b) Employees in positions under subsection (a) shall be
2 [~~board of education~~] superintendent appointees exempt from
3 chapter 76, but the application of section 89-6 with respect to
4 collective bargaining coverage and the employer for purposes of
5 collective bargaining shall not be affected. Except for rights
6 or benefits specifically conditioned upon membership in the
7 civil service, the wages, hours, benefits, and other terms and
8 conditions of employment for these employees in existence on
9 July 1, 2002 shall remain in effect, but may be changed as
10 provided in chapter 89 or 89C, as applicable. Any employee who
11 is a member of the civil service on July 1, 2002 shall be
12 granted tenure by the [~~board of education~~] superintendent
13 without the necessity of meeting any probationary or other
14 requirements for tenure that the [~~board of education~~]
15 superintendent establishes. "

16 SECTION 29. Section 302A-801, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "D. Hawaii Teacher Standards Board

19 **§302A-801 Hawaii teacher standards board established.** (a)

20 There is established the Hawaii teacher standards board, which
21 shall be placed within the department for administrative
22 purposes only. The board shall consist of fifteen members,



1 including not less than six licensed teachers regularly engaged
2 in teaching at the time of the appointment, three educational
3 officers employed at the time of the appointment, [~~the~~
4 ~~chairperson of the board of education or the chairperson's~~
5 ~~designee,~~] the superintendent or the superintendent's designee,
6 a representative of independent schools, the dean of the
7 University of Hawaii college of education or the dean's
8 designee, and [~~two~~] three members of the public; provided that
9 the dean's designee shall be chosen from the member institutions
10 of the teacher education coordinating committee established
11 under section 304A-1202.

12 (b) Except for the [~~chairperson of the board of education,~~
13 ~~superintendent,~~] superintendent and dean of the college of
14 education, the governor shall appoint the members of the board
15 pursuant to section 26-34, from a list of qualified nominees
16 submitted to the governor by the departments, agencies,
17 organizations representative of the constituencies of the board,
18 and current members of the board; provided that the [~~two~~] three
19 members of the public shall be from lists of qualified nominees
20 submitted to the governor by the Hawaii Business Roundtable,
21 Hawaii P-20 council, and Hawaii workforce development council.
22 To the extent possible, the board membership shall reflect



1 representation of elementary and secondary school personnel from
2 all islands.

3 (c) Appointed board members shall serve not more than
4 three consecutive three-year terms.

5 (d) Board members shall receive no compensation. When
6 board duties require that a board member take leave of the board
7 member's duties as a state employee, the appropriate state
8 department shall allow the board member to be placed on
9 administrative leave with pay and shall provide substitutes,
10 when necessary, to perform that board member's duties. Board
11 members shall be reimbursed for necessary travel expenses
12 incurred in the conduct of official board business.

13 (e) The chairperson of the board shall be designated by
14 the members of the board.

15 (f) The board may employ an executive director for a term
16 of up to four years, who shall be appointed by the [~~board of~~
17 ~~education~~] superintendent without regard to chapters 76 and 89;
18 provided that the board shall submit a nominee to the [~~board of~~
19 ~~education~~] superintendent for approval or disapproval; provided
20 further that if the nominee is disapproved, the board shall
21 submit another nominee to the [~~board of education~~]
22 superintendent for approval or disapproval.



1 The board may terminate the executive director's contract
2 for cause; provided that the board shall submit the
3 recommendation for termination to the [~~board of education~~]
4 superintendent for approval or disapproval. "

5 SECTION 30. Section 302A-1004, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 (b) The department shall submit to the legislature[~~7~~] and
8 the governor, [~~and the board of education~~] at least twenty days
9 prior to the convening of each regular legislative session a
10 report of the specifics of the implementation of the
11 comprehensive accountability system, as well as the fiscal
12 requirements and legislative actions necessary to maintain and
13 improve the accountability system."

14 SECTION 31. Section 302A-1101, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "C. Organization

17 §302A-1101 Department of education; [~~board of education;~~]
18 **superintendent of education.** (a) There shall be a principal
19 executive department to be known as the department of education,
20 which shall be headed by [~~an elected policy-making board to be~~
21 ~~known as the board of education. The board shall have power in~~
22 ~~accordance with law to formulate statewide educational policy,~~



1 ~~adopt student performance standards and assessment models,~~
2 ~~monitor school success, and to appoint the] a superintendent of~~
3 ~~education, as [the chief executive officer of the public school~~
4 ~~system] appointed by the governor.~~

5 (b) ~~[The board shall appoint, and may remove, the~~
6 ~~superintendent by a majority vote of its members.] The~~
7 ~~superintendent:~~

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

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

11 (3) May be terminated ~~[only for]~~ with or without cause.

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



1 ~~and policies and may be removed only for cause by a majority~~
2 ~~vote of the members of the board.~~

3 ~~(d)]~~ The [~~board~~] superintendent shall appoint the charter
4 school review panel, which shall serve as the charter authorizer
5 for charter schools, with the power and duty to issue charters,
6 oversee and monitor charter schools, hold charter schools
7 accountable for their performance, and revoke charters."

8 SECTION 32. Section 302A-1124, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "**§302A-1124 Mandate to initiate school community councils.**

11 (a) The department, through [~~the board and~~] its superintendent,
12 shall establish a school community council system under which
13 each public school, excluding charter schools, shall create and
14 maintain a school community council. Each school community
15 council shall:

16 (1) Review and evaluate the school's academic plan and
17 financial plan, and either recommend revisions of the
18 plans to the principal, or recommend the plans for
19 approval by the complex area superintendent;

20 (2) Ensure that the school's academic and financial plans
21 are consistent with the educational accountability
22 system under section 302A-1004;



1 (3) Participate in principal selection and evaluation, and
2 transmit any such evaluations to the complex area
3 superintendent; and

4 (4) Provide collaborative opportunities for input and
5 consultation.

6 (b) School community councils shall be exempt from the
7 requirements of chapters 91 and 92. The school community
8 councils shall:

9 (1) Make available the notices and agendas of public
10 meetings:

11 (A) At a publicly accessible area in the school's
12 administrative office so as to be available for
13 review during regular business hours; and

14 (B) On the school's internet web site,
15 not less than six calendar days prior to the public
16 meeting, unless a waiver is granted by the
17 superintendent in the case of an emergency; and

18 (2) Make available the minutes from public meetings on a
19 timely basis in:

20 (A) The school's administrative office so as to be
21 available for review during regular business
22 hours; and



1 (B) On the school's internet web site.

2 (c) Complex area superintendents may require revisions to
3 a school's academic and financial plans if the plans are in
4 violation of law or conflict with statewide educational policies
5 and standards, or are otherwise in the best interests of the
6 school.

7 (d) The superintendent of education may [~~recommend to the~~
8 ~~board of education dissolution of~~] dissolve a school community
9 council and establish an interim school community council if the
10 school community council engages in any act or omission that
11 would constitute gross negligence, wilful and wanton misconduct,
12 or intentional misconduct. The superintendent may [~~recommend to~~
13 ~~the board the removal of~~] remove any member of a school
14 community council. The superintendent shall appoint or
15 facilitate the creation of an interim school community council
16 at any school that has not established a council or has had its
17 council dissolved. In appointing or facilitating the creation
18 of an interim school community council at any school that has
19 had its council dissolved, the superintendent may appoint
20 individuals who were previously members of the council.

21 (e) Unless otherwise specified, each school community
22 council shall establish policies governing the council's



1 composition, election, staggered terms of office for members,
2 operation, and vacancies; provided that:

3 (1) The number of school personnel [on] any school
4 community council shall be equal to the number of
5 primary stakeholders on the school community council;

6 (2) At the elementary and middle school levels, each
7 school community council shall be composed of the
8 principal and at least one member representing each of
9 the following groups:

10 (A) Parents elected by ballots distributed among and
11 collected from the parents of the school's
12 students;

13 (B) Teachers elected by ballots distributed among and
14 collected from teachers of the school;

15 (C) Noncertificated school personnel elected by
16 ballots distributed among and collected from
17 noncertificated personnel of the school;

18 (D) Community representatives elected by ballots
19 distributed among and collected from parents of
20 the school's students; and

21 (E) Student representatives selected by the student
22 council of the school; and



1 (3) At the high school level, each school community
2 council shall be composed of the principal and at
3 least one member representing each of the following
4 groups:

5 (A) Parents elected by ballots distributed among and
6 collected from parents of the school's students;

7 (B) Teachers elected by ballots distributed among and
8 collected from teachers of the school;

9 (C) Noncertificated school personnel elected by
10 ballots distributed among and collected from
11 noncertificated personnel of the school;

12 (D) Community representatives elected by ballots
13 distributed among and collected from the parents
14 of the school's students; and

15 (E) Student representatives selected by the student
16 council of the school.

17 For the purposes of this subsection, "primary stakeholders"
18 means students, parents, and community members.

19 (f) School community councils shall elect officers,
20 including:

21 (1) A chairperson;

22 (2) A vice-chairperson;



1 (3) A secretary; and

2 (4) Other officers as needed to perform stated duties in
3 support of the work of the council.

4 (g) The principal shall have the authority to set aside
5 any decision made by the school community council if the
6 principal determines it to be in the best interests of the
7 school; provided that the principal notifies the school
8 community council. If the school community council opposes a
9 decision of the principal, an appeal shall first be brought to
10 the complex area superintendent for resolution and, if
11 necessary, to the superintendent [~~and, finally, to the board of~~
12 ~~education~~].

13 (h) Complex area superintendents shall assist the school
14 community councils and principals within their respective
15 complex areas in:

16 (1) Obtaining the support and services of the department;
17 and

18 (2) Ensuring the progress and success of the school's
19 academic and financial plan."

20 SECTION 33. Section 302A-1134, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



1 (b) Any child who, while attending school, is found to be
2 in possession of a firearm, shall be excluded from attending
3 school for not less than one year. The due process procedures
4 of chapter 19 of the Department of Education, Hawaii
5 Administrative Rules, shall apply to any child who, while
6 attending school, is alleged to be in possession of a firearm.
7 The superintendent, on a case-by-case basis, may modify the
8 exclusion of a child found to be in possession of a firearm
9 while attending school. If a child is excluded from attending
10 school, the superintendent shall ensure that substitute
11 educational activities or other appropriate assistance shall be
12 provided. The superintendent shall submit to the United States
13 Department of Education, [~~the state board of education,~~] and the
14 legislature an annual report indicating the number of students
15 excluded, the types of firearms found in their possession, and
16 the schools from which they were excluded."

17 SECTION 34. Section 302A-1134.6, Hawaii Revised Statutes,
18 is amended to read as follows:

19 "**§302A-1134.6 Zero tolerance policy.** (a) Any child who
20 possesses, sells, or uses a dangerous weapon or switchblade
21 knife, while attending school or while attending department-
22 supervised activities held on or off school property, may be



1 excluded from attending school for up to ninety-two school days,
2 as determined by the principal and approved by the
3 superintendent or other individuals designated pursuant to rules
4 adopted by the [~~board~~] department.

5 (b) Except as provided in subsection (f), any child who
6 possesses, sells, consumes, or uses intoxicating liquor or
7 illegal drugs, while attending school or while attending
8 department-supervised activities held on or off school property,
9 may be excluded from attending school for up to ninety-two
10 school days, as determined by the principal and approved by the
11 superintendent or other individuals designated pursuant to rules
12 adopted by the [~~board~~] department.

13 (c) Except as provided in subsection (f), any child who
14 reasonably appears to have consumed or used intoxicating liquor
15 or illegal drugs prior to attending school or attending
16 department-supervised activities held on or off school property,
17 may be excluded from attending school for up to ninety-two
18 school days, as determined by the principal and approved by the
19 superintendent or other individuals designated pursuant to rules
20 adopted by the [~~board~~] department.



1 (d) In any case of exclusion from school, the due process
2 procedures as set forth in the provisions of Hawaii
3 administrative rules relating to student discipline shall apply.

4 (e) If a child is excluded from attending school for more
5 than ten days, the superintendent or the superintendent's
6 designee shall ensure that substitute educational activities or
7 other appropriate assistance are provided, such as referral for
8 appropriate intervention and treatment services, as determined
9 by the principal in consultation with the appropriate school
10 staff.

11 (f) A child determined to be in violation of subsection
12 (b) or (c) shall be subject to the department's disciplinary
13 rules; provided that:

14 (1) The school shall administer a screening tool approved
15 by the department to determine whether there is a need
16 for the child to be referred for a substance abuse
17 assessment;

18 (2) The child shall be allowed to return to school earlier
19 than the department's original disciplinary
20 determination; provided that the child gives the
21 school evidence of the following:



1 (A) A substance abuse assessment has been completed;
2 and

3 (B) The child is progressing toward clinical
4 discharge from any substance abuse treatment or
5 substance abuse counseling recommended by the
6 substance abuse assessment;

7 (3) If the substance abuse assessment finds that the child
8 does not need substance abuse treatment or substance
9 abuse counseling, the school may allow the child to
10 return to school earlier than originally indicated;
11 provided that:

12 (A) The child provides a certified copy of the
13 assessment; and

14 (B) The child's parent or legal guardian consents to
15 the child and the child's family receiving
16 follow-up counseling or other student support
17 services to be provided by the department.

18 In determining whether to allow the child to
19 return to school early, the school administrator shall
20 review and determine the nature and severity of the
21 offense, the impact of the offense on others, the age



1 of the offender, and whether the offender is a repeat
2 offender; and

3 (4) For the child's first violation of subsection (b) or
4 (c), if the child provides evidence of clinical
5 discharge from the substance abuse treatment program
6 or substance abuse counseling, all records of
7 disciplinary action relating to the original offense
8 shall be expunged. For the purposes of this
9 paragraph, "expunged" means the records of substance
10 abuse assessment shall be segregated and kept
11 confidential but shall be destroyed upon graduation of
12 the child.

13 (g) For purposes of this section:

14 "Dangerous weapon" means a dirk, dagger, butterfly knife,
15 blackjack, slug shot, billy, metal knuckles, or other instrument
16 whose sole design and purpose is to inflict bodily injury or
17 death; provided that firearms are excluded from this definition.

18 "Illegal drugs" means the possession, distribution,
19 ingestion, manufacture, sale, or delivery of substances which
20 are prohibited under chapter 329 and chapter 712, part IV.

21 "Switchblade knife" is as defined in section 134-52.



1 (h) The [~~board of education~~] department shall adopt rules
2 in accordance with chapter 91 to implement this section."

3 SECTION 35. Section 302A-1303.5, Hawaii Revised Statutes,
4 is amended to read as follows:

5 "**[§302A-1303.5] Committee on weights.** (a) There is
6 established within the department of education the committee on
7 weights to develop a weighted student formula pursuant to
8 section 302A-1303.6. The committee shall:

- 9 (1) Create a list of student characteristics that will be
10 weighted;
- 11 (2) Create a system of weights based upon the student
12 characteristics that may be applied to determine the
13 relative cost of educating any student;
- 14 (3) Determine specific student weights, including their
15 unit value;
- 16 (4) Determine which moneys shall be included in the amount
17 of funds to be allocated through the weighted student
18 formula;
- 19 (5) Recommend a weighted student formula to the board of
20 education;
- 21 (6) Perform any other function that may facilitate the
22 implementation of the weighted student formula; and



1 (7) Meet not less than annually to review the weighted
2 student formula and, if the committee deems it
3 necessary, recommend a new weighted student formula
4 for adoption by the board of education.

5 (b) The composition of the committee on weights shall be
6 determined by [~~the board of education based on recommendations~~
7 ~~from~~] the superintendent of education and dean of the University
8 of Hawaii at Manoa college of education and include principals,
9 teachers, and other members with the appropriate professional
10 skills, experiences, and qualifications needed to facilitate the
11 work of the committee. The superintendent or the
12 superintendent's designee shall chair the committee on weights.

13 (c) The committee on weights may form advisory
14 subcommittees to obtain input from key stakeholders as
15 determined necessary by the committee.

16 (d) The members of the committee on weights shall serve at
17 the pleasure of the [~~board of education~~] superintendent and
18 shall not be subject to section 26-34. Members of the committee
19 on weights shall serve without compensation but shall be
20 reimbursed for expenses, including travel expenses, necessary
21 for the performance of their duties."



1 SECTION 36. Section 302A-1303.6, Hawaii Revised Statutes,
2 is amended to read as follows:

3 "§302A-1303.6 **Weighted student formula.** Based upon
4 recommendations from the committee on weights, the [~~board of~~
5 ~~education~~] superintendent, not less than annually, shall adopt a
6 weighted student formula for the allocation of moneys to public
7 schools that takes into account the educational needs of each
8 student. The department, upon the receipt of appropriated
9 moneys, shall use the weighted student formula to allocate funds
10 to public schools. Principals shall expend moneys provided to
11 the principals' schools. This section shall only apply to
12 charter schools for fiscal years in which the charter schools
13 elect pursuant to section 302B-13 to receive allocations
14 according to the weighted student formula."

15 SECTION 37. Section 302B-1, Hawaii Revised Statutes, is
16 amended by repealing the definition of "board" to read as
17 follows:

18 [~~"Board" means the board of education.~~]

19 SECTION 38. Section 302B-3, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:

21 (b) The panel shall consist of twelve members, and shall
22 include:



- 1 (1) Two licensed teachers regularly engaged in teaching;
2 provided that one teacher is employed at a start-up
3 charter school, and one teacher is employed at a
4 conversion charter school;
- 5 (2) Two educational officers; provided that one
6 educational officer is employed at a start-up charter
7 school, and one educational officer is employed at a
8 conversion charter school;
- 9 (3) One member or former member of a charter school local
10 school board;
- 11 (4) ~~[The chair of the board of education or the chair's~~
12 ~~designee]~~ The superintendent of education or the
13 superintendent's designee;
- 14 (5) A representative of Hawaiian culture-focused charter
15 schools;
- 16 (6) Two representatives of the University of Hawaii who
17 are not affiliated with charter schools;
- 18 (7) One member with a background in business or accounting
19 who is not affiliated with charter schools;
- 20 (8) One member with a background in the building trades or
21 real estate who is not affiliated with charter
22 schools; and



1 (9) A representative from the Hawaii Association of
2 Independent Schools;
3 provided that the initial appointments for representatives in
4 paragraphs (7) to (9) shall be made by September 1, 2007. From
5 June 1, 2007, until such time that the panel has twelve members,
6 five members of the panel shall constitute a quorum to conduct
7 business and a concurrence of at least five members shall be
8 necessary to make any action of the panel valid; provided that,
9 upon filling the twelve seats as required under this subsection,
10 a majority of the panel shall constitute a quorum to conduct
11 business, and the concurrence of a majority of all the members
12 to which the panel is entitled shall be necessary to make any
13 action of the panel valid."

14 SECTION 39. Section 304A-303, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**[§304A-303] Career and technical education coordinating**
17 **advisory council.** (a) There is established a career and
18 technical education coordinating advisory council which shall
19 serve in an advisory capacity to the board of regents. The
20 council shall consist of eleven members, nine appointed and two
21 ex officio voting members. Of the nine appointed members:



1 (1) Three shall be appointed from the board of regents by
2 the chairperson of that body;

3 (2) Three shall be appointed [~~from the board of education~~
4 ~~by the chairperson of that body~~] by the governor; and

5 (3) Three shall be appointed from the workforce
6 development council by that council.

7 Of the three members appointed from the workforce
8 development council, one member shall represent management, one
9 member shall represent labor, and the third shall represent the
10 public. Of the two ex officio members, one shall be the
11 president of the university and the other shall be the
12 superintendent of education.

13 (b) Of the three members first appointed by each
14 appointing authority, other than the chairperson of the board of
15 education, one shall be appointed for two years, one shall be
16 appointed for three years, and one shall be appointed for four
17 years. In the case of the members appointed from the board of
18 education, the terms of such members shall be for their
19 remaining terms as members of the board of education. Upon the
20 expiration of the terms of the first members, their successors
21 shall serve for a term of four years. Vacancies shall be filled
22 by the appropriate appointing authority for the unexpired term.



1 (c) The council shall elect a chairperson and such other
2 officers as it deems necessary. Section 92-15 shall apply. The
3 members of the council shall serve without compensation but
4 shall be entitled to their travel expenses within the State when
5 attending meetings of the council or when actually engaged in
6 business relating to the work of the council."

7 SECTION 40. Section 304a-1203, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[§304A-1203] **Hawaii institute for educational**
10 **partnerships.** (a) Reforms to the public school system cannot
11 succeed without concomitant reforms to the manner in which
12 teachers are educated. The purpose of this section is to create
13 a link between the public schools and university teacher
14 education programs to ensure that teacher education is focused
15 on the needs of the diverse student populations found within the
16 public school system.

17 (b) There is established a Hawaii institute for
18 educational partnerships. The institute, in collaboration with
19 the department of education, shall:

20 (1) Continually review the system of educating teachers
21 for the purpose of redesigning the teacher education
22 program of the college of education so that it is



1 responsive to the needs of the public school system in
2 Hawaii;

3 (2) Develop innovative strategies to effectuate the
4 changes in the teacher education program at the school
5 level; and

6 (3) Where appropriate, establish university-school
7 partnerships as the mechanisms by which to implement
8 the innovative strategies developed by the
9 [~~institute~~].

10 The institute shall submit, prior to the convening of each
11 regular session of the legislature, a report to the board of
12 regents, the [~~board of education~~] superintendent, and the
13 legislature outlining its progress in redesigning the teacher
14 education program and the initiation of any university-school
15 partnerships."

16 SECTION 41. Section 312-1, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "PART I. GENERAL PROVISIONS

19 §312-1 Duties of the [~~board~~] superintendent of education.

20 The [~~board of education~~] superintendent shall care for, manage,
21 and control all property set apart, donated, loaned to, or in
22 any manner acquired for the use of libraries; receive, care for,



1 expend, and account for any money which may be received for the
2 purpose of erecting buildings for libraries or for any other
3 purposes of the libraries; collect, purchase, receive gifts of,
4 and otherwise acquire all books and other publications proper
5 for libraries, and arrange, classify, and catalogue the same;
6 provide for their safekeeping; expend moneys appropriated by the
7 legislature and otherwise acquired for the development, use,
8 support, and maintenance of libraries; provide ways and means
9 for placing libraries within reach of all residents throughout
10 the State and particularly of all public and private school
11 children; provide and maintain branch libraries, offices, or
12 places for the distribution of books and periodicals throughout
13 the State; make such contracts as may be necessary to carry into
14 effect the general duties herein imposed; appoint such officers
15 and employees as it deems necessary; and make rules for the
16 management and use of libraries, and for the control of the
17 property under its management."

18 SECTION 42. Section 312-2, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§312-2 Powers of [~~board~~] superintendent; special fund.**

21 The [~~board of education~~] superintendent may:



- 1 (1) Except as provided in section 312-3.9, make
2 arrangements or contracts as are approved by the
3 governor, with any county, city, association, society,
4 person, or persons, for the purpose of benefiting the
5 libraries and increasing their facilities and use;
- 6 (2) Subject to section 26-12, enter into such arrangement
7 or contract as is approved by the governor, with the
8 Friends of the Library of Hawaii, for the purpose of
9 obtaining the use of the books and property and income
10 of the Friends of the Library of Hawaii;
- 11 (3) Cooperate by exchange and otherwise with libraries now
12 existing or hereafter to be formed;
- 13 (4) Receive, use, manage, or invest moneys or other
14 property, real, personal, or mixed which may be given,
15 bequeathed, devised, or in any manner received from
16 sources other than the legislature or any federal
17 appropriation for any or all purposes of the
18 libraries;
- 19 (5) Deposit with the director of finance in a special fund
20 all moneys donated to the board for library services;
- 21 (6) Unless otherwise provided for by the terms and
22 conditions of the donation, convert, at such time as



1 the board may at its sole discretion determine, any or
2 all donations of property, real, personal, or mixed,
3 into money to be deposited into the special fund; and

4 (7) Expend the moneys in the special fund in accordance
5 with the terms and conditions of each donation for the
6 purposes of the libraries.

7 The [~~board~~] superintendent shall be the trustee of the special
8 fund and all moneys therein shall be deemed to have been
9 appropriated to the use and for the purposes of the [~~board~~]
10 superintendent in providing library services. Nothing in this
11 section shall be construed to limit the powers and duties of the
12 [~~board~~] superintendent hereinbefore expressed, or to empower the
13 [~~board~~] superintendent to obligate the State financially in any
14 sum which shall not have been appropriated by the legislature
15 for the use of the [~~board~~] superintendent."

16 SECTION 43. Section 312-2.1, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§312-2.1 Appointment of state librarian; duties; salary.**

19 (a) The state librarian shall be appointed by the [~~board of~~
20 ~~education~~] superintendent, without regard to chapter 76, shall
21 be under the direction of the [~~board~~] superintendent, shall be
22 responsible for the operation, planning, programming, and



1 budgeting of all community/school and public libraries within
2 the State, and may be removed by [~~a majority vote of its~~
3 ~~members~~] the superintendent. The state librarian may be
4 appointed:

5 (1) Without regard to the state residency provisions of
6 section 78-1(b); and

7 (2) For a term of up to four years.

8 (b) The salary of the state librarian shall be set by the
9 [~~board of education~~] superintendent at a rate no greater than
10 \$120,000 a year."

11 SECTION 44. Section 312-3, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§312-3 Exchange of librarians.** The [~~board of education~~]
14 superintendent may contract for the exchange of librarians with
15 librarians of any state, country, or territory in accordance
16 with this section, except as otherwise provided in section 78-
17 27. Local librarians so exchanged shall be paid their regular
18 salaries out of the funds appropriated for personal services in
19 the library budget for the library concerned. The
20 qualifications of all librarians from any such state, country,
21 or territory so exchanged shall be equal to those of the local
22 librarians exchanged. In the selection of local librarians for



1 exchange, preference shall be given to persons born in the
2 State. The requirements of citizenship shall not apply to any
3 librarian coming to the State from any foreign state, country,
4 or territory under any such contract of exchange. All
5 librarians so exchanged shall furnish their own transportation
6 to and from the state, country, or territory with which
7 exchanged.

8 No compensation shall be paid by the State to visiting
9 exchange librarians; provided that in any case where the local
10 exchanged librarian becomes incapacitated or, for any reason,
11 leaves the exchanged position permanently, the library concerned
12 may pay the visiting exchange librarian an amount not to exceed
13 the salary rating of the local exchanged librarian, such an
14 arrangement to continue until the end of the period of exchange
15 or until such time as some satisfactory adjustment has been
16 made."

17 SECTION 45. Section 312-3.5, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§312-3.5 Detention of books and other public library**
20 **materials; penalty.** A person who detains a book, newspaper,
21 plate, picture, photograph, engraving, painting, drawing, map,
22 magazine, document, letter, government record, microform, sound



1 recording, audio visual materials in any format, magnetic or
2 other tapes, artifacts, or other documentary (written or
3 printed) materials belonging to any public library or similar
4 institution controlled by the State for one day after the due
5 date of the public library materials, shall be subject to a
6 nominal charge established by the ~~[board of education]~~ state
7 librarian.

8 A person detaining such books or public library materials
9 thirty days after the due date shall be subject to a charge
10 commensurate with the replacement value of the books or public
11 library materials."

12 SECTION 46. Section 312-3.9, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[§312-3.9] **Selection and acquisition of library books.**

15 (a) ~~[The board of education shall take all steps possible in~~
16 ~~any outsourcing contract in effect on July 1, 1997, including~~
17 ~~the development and implementation of necessary procedures, to~~
18 ~~ensure formal involvement by the state public service librarians~~
19 ~~in the selection of books and other library materials.~~

20 ~~(b)]~~ Upon termination of any outsourcing contract in
21 effect on July 1, 1997, decisions regarding the selection of
22 books and other resources on behalf of the state library system



1 that require the expenditure of public moneys shall be performed
2 internally by the public service librarians of the state library
3 system. The state librarian may contract with external sources
4 for the purchase of books and other resources selected by the
5 public service librarians. The state librarian shall be
6 responsible for books or other resources acquired on behalf of
7 the state library system. "

8 SECTION 47. Section 312-4.6, Hawaii Revised Statutes, is
9 amended to read as follows:

10 " ~~§312-4.6~~ **Cost-recovery fees for the administration of**
11 **Hawaii state public library system.** (a) The ~~[board of~~
12 ~~education]~~ superintendent may charge and add a fee to any amount
13 due in accordance with its duties and powers under section 312-1
14 for:

15 (1) Any cost or expense incurred by the Hawaii state
16 public library system as a result of any action taken
17 to enforce the collection of costs of lost books and
18 any overdue fines and fees charged to that patron
19 after the public library system has mailed written
20 notice demanding payment and advising that continued
21 failure to pay the amount due may result in collection
22 action being taken, including the imposition of cost-



1 recovery fees, not to exceed \$10, pursuant to this
2 section. Any cost-recovery fee charged against the
3 patron for costs, fees, and other charges may include
4 collection agency fees, attorneys' fees, court filing
5 fees, and similar fees incurred by the Hawaii state
6 public library system in connection with the
7 collection action;

8 (2) Hawaii public library system sponsored seminars or
9 workshops, including educational materials in various
10 media format; and

11 (3) Research and reference materials published on magnetic
12 media, CD-ROM, or other machine-readable form.

13 (b) Interest shall not accrue with respect to any fee
14 under this section.

15 (c) Notwithstanding any other provisions under this
16 chapter, whenever a patron makes a partial payment of a
17 particular delinquent amount, the amount received by the Hawaii
18 state public library system shall first be credited to the fees
19 charged under this section, in the order the fees were charged.

20 (d) The [~~board of education~~] superintendent shall
21 prescribe the procedures relating to:

22 (1) The charging of fees;



- 1 (2) The waiver of fees;
- 2 (3) The documents, materials, and services for which fees
- 3 may be charged;
- 4 (4) The amount of the fees that may be assessed and
- 5 charged to a library patron;
- 6 (5) The accumulated amount of lost library material costs,
- 7 fines, or fees;
- 8 (6) The period of time that the lost library materials
- 9 costs, fines, or fees must remain unpaid before they
- 10 may be referred to a collection agency for collection
- 11 pursuant to rules adopted under chapter 91; and
- 12 (7) The notification of persons with delinquent accounts
- 13 of the additional fees to be charged by the collection
- 14 agency prior to the referral to the collection agency.
- 15 (e) The state librarian may waive any fee imposed by the
- 16 Hawaii state public library system under chapter 312 in cases of
- 17 hardship as prescribed by rules adopted under chapter 91.
- 18 (f) Upon its collection, the cost-recovery fee shall be
- 19 deposited into the libraries special fund established by section
- 20 312-3.6 and shall be expended as prescribed by law."

21 SECTION 48. Section 312-5, Hawaii Revised Statutes, is
22 amended to read as follows:

1 "**§312-5 Annual report to the governor.** Annually during
2 the month of July but as of June 30 preceding, the [~~board of~~
3 ~~education~~] superintendent shall report to the governor the
4 moneys received from all sources and expended for all purposes
5 during the preceding year, and any other matters pertaining to
6 the libraries which it may deem important, or the governor may
7 require. "

8 SECTION 49. Section 312-8, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "**§312-8 Literacy and lifelong learning program.** (a) In
11 addition to its other duties, [~~the board of education, through~~]
12 the state librarian, shall:

13 (1) Provide for the establishment and ongoing operation of
14 a literacy and lifelong learning program for the
15 public libraries in the State;

16 (2) Provide coordination and facilitation of the
17 activities of literacy service providers and literacy
18 programs in the public, private, and volunteer
19 sectors; and

20 (3) Develop public-private sector literacy partnerships
21 for literacy program support."



1 SECTION 50. Section 312-21, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[PART II.] FEE FOR ENHANCED SERVICES PROGRAM

4 [§312-21] Fee for enhanced services program; established.

5 (a) The [~~board of education, through the~~] state librarian,
6 shall:

7 (1) Provide for the establishment and ongoing operation of
8 a fee for enhanced service program, which includes but
9 is not limited to the planning, programming, and
10 budgeting of operating, research and development, and
11 capital investment programs; and

12 (2) Administer a special fund to be known as the "library
13 fee for enhanced services special fund".

14 (b) Notwithstanding sections 312-3.6 and 312-4, all moneys
15 collected through the fee for enhanced services program shall be
16 deposited into the library fee for enhanced services special
17 fund established under section 312-22.

18 (c) The state librarian, with the approval of the [~~board~~
19 ~~of education~~] superintendent, shall determine the types and
20 kinds of enhanced services to be included under the fee for
21 enhanced services program; provided that a schedule of fees for
22 these enhanced services shall be adopted in accordance with



1 chapter 91. Libraries shall not be obligated to offer all of
2 the services specified in the fee for enhanced services program,
3 and each public library shall determine which services it will
4 provide."

5 SECTION 51. Section 317-6, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§317-6 Evaluation report.** The evaluation report shall be
8 in the form of a report of conference proceedings, including
9 specific recommendation for action by the [~~board of education~~
10 ~~or~~] the state legislature and copies shall be forwarded to the
11 governor, and the state legislature [~~and the board of education~~]
12 within forty-five days after the conclusion of the conference."

13 SECTION 52. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 53. This Act shall take effect upon approval and
16 upon ratification of a constitutional amendment abolishing the
17 board of education.

18
19

INTRODUCED BY:

Guthrie Thelen

Atkinson

Barbara Maramoto

Conrad



Richard

zr



Report Title:

Education

Description:

Abolishes board of education.

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

