
A BILL FOR AN ACT

RELATING TO EDUCATION GOVERNANCE.

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

1 PART I

2 SECTION 1. The purpose of this Act is to implement, upon
3 its ratification, the constitutional amendments to Article X,
4 Section 2 of the Hawaii Constitution, by requiring the members
5 of the board of education to be nominated and, with the advice
6 and consent of the senate, appointed by the governor.

7 PART II

8 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
9 amended by adding two new sections to be appropriately
10 designated and to read as follows:

11 "§302A-A Board of education members; appointment; terms;
12 quorum and meetings; compensation. (a) The board shall consist
13 of ten members as follows:

14 (1) Nine voting members who shall represent and reside in
15 the specified geographic areas as follows:

16 (A) One member from the county of Hawaii;

17 (B) One member from the county of Maui;

18 (C) One member from the county of Kauai; and



1 (D) Six members from the city and county of Honolulu;
2 and

3 (2) One nonvoting member who shall be a public school
4 student at the time of the initial appointment.

5 The members shall be appointed by the governor, with the advice
6 and consent of the senate, and may be removed by the governor.

7 Except as otherwise provided by law, state officers shall
8 be eligible for appointment and membership.

9 (b) Except for the student member, the governor shall set
10 the terms of those initially appointed under this section to
11 each seat on the board as follows:

12 (1) Three members shall serve one-year terms;

13 (2) Three members shall serve two-year terms; and

14 (3) Three members, including the chairperson of the board,
15 shall serve three-year terms.

16 (c) Except for the student member:

17 (1) The term of each member shall be three years, except
18 as provided for the initial appointment in subsection

19 (b); and

20 (2) Members shall serve no more than two consecutive
21 three-year terms; provided that the members who are
22 initially appointed to terms of two years or less



1 pursuant to subsection (b) may be reappointed to two
2 ensuing, consecutive three-year terms. If a member is
3 to be appointed to a second consecutive term of three
4 years, the senate shall consider the question of
5 whether to reconfirm the member at least one hundred
6 twenty days prior to the expiration of a member's
7 first three-year term; provided that if the senate is
8 not in session after the member's reappointment and
9 prior to the one-hundred-twenty-day deadline by which
10 the senate shall have considered the question of
11 reconfirmation, the member shall continue to serve
12 until the senate takes final action on the
13 reconfirmation when it convenes for the next regular
14 session or the next special session during which the
15 senate is authorized to consider the question of
16 reconfirmation.

17 (d) The term of the student member shall be two years.

18 The student member may be reappointed for one additional
19 consecutive term even though the member is no longer a student
20 at the time of reappointment; provided that the senate shall
21 consider the question of whether to reconfirm the member at
22 least one hundred twenty days prior to the expiration of the



1 member's first term; provided further that if the senate is not
2 in session after the member's reappointment and prior to the
3 one-hundred-twenty-day deadline by which the senate shall have
4 considered the question of reconfirmation, the member shall
5 continue to serve until the senate takes final action on the
6 reconfirmation when it convenes for the next regular session or
7 the next special session during which the senate is authorized
8 to consider the question of reconfirmation.

9 (e) Every member may serve beyond the expiration date of
10 the member's term of appointment until the member's successor
11 has been appointed by the governor and confirmed by the senate
12 in accordance with Article X, Section 2, of the Hawaii
13 Constitution.

14 (f) The board shall select a chairperson from among its
15 voting members.

16 The board shall select a vice chairperson from among its
17 voting members, who shall serve as interim chairperson in the
18 event the chairperson's seat becomes vacant.

19 (g) A majority of all the voting members to which the
20 board is entitled shall constitute a quorum to conduct
21 business. At any time the board has fewer than six voting
22 members, three voting members of the board shall constitute a



1 quorum to conduct business and the concurrence of three voting
2 members shall be necessary to make any action of the board
3 valid.

4 Notwithstanding chapter 92, from the convening of the
5 legislature in regular session to adjournment sine die of each
6 regular session, and during each special session of the
7 legislature, the board may file any notice that specifies only
8 legislation or legislation-related agenda items, no fewer than
9 two calendar days before the meeting.

10 (h) The members of the board shall serve without pay but
11 shall be entitled to their travel expenses within the state when
12 attending meetings of the board or when actually engaged in
13 business relating to the work of the board.

14 PART III

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

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



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

6 (A) For each precinct in the affected district, an
7 election rate point shall be calculated by
8 dividing the total voter turnout in that precinct
9 by the total voter turnout in the district. For
10 the purpose of this subparagraph, the absentee
11 votes cast for the affected district shall be
12 treated as a precinct. The election rate point
13 shall be calculated by dividing the total
14 absentee votes cast for the affected district by
15 the total voter turnout in that district. All
16 election rate points shall be expressed as
17 decimal fractions rounded to the nearest hundred
18 thousandth[~~r~~];

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



1 are tied in receiving the highest number of votes
2 for that precinct, the election rate point shall
3 be equally apportioned among those candidates
4 involved in that precinct tie[-];

5 (C) After the election rate points calculated under
6 subparagraph (A) for all the precincts have been
7 allocated as provided under subparagraph (B), the
8 election rate points allocated to each candidate
9 shall be tallied and the candidate with the
10 highest election rate point total shall be
11 declared the winner[-]; and

12 (D) If there is a tie between two or more candidates
13 in the election rate point total, the candidate
14 who is allocated the highest election rate points
15 from the precinct with the largest voter turnout
16 shall be declared the winner[-];

17 and

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



1 (A) For each representative district in the [~~State~~]
2 state or county, as the case may be, an election
3 rate point shall be calculated by dividing the
4 total voter turnout in that representative
5 district by the total voter turnout in the state,
6 county, or federal office district, as the case
7 may be; provided that for purposes of this
8 subparagraph:

9 (i) The absentee votes cast for a statewide,
10 countywide, or federal office shall be
11 treated as a separate representative
12 district and the election rate point shall
13 be calculated by dividing the total absentee
14 votes cast for the statewide, countywide, or
15 federal office by the total voter turnout in
16 the state, county, or federal office
17 district, as the case may be[~~-~~]; and

18 (ii) The overseas votes cast for any election in
19 the [~~State~~] state for a federal office shall
20 be treated as a separate representative
21 district and the election rate point shall
22 be calculated by dividing the total number



1 of overseas votes cast for the affected
2 federal office by the total voter turnout in
3 the affected federal office district. The
4 term "overseas votes" means those votes cast
5 by absentee ballots for a presidential
6 election as provided in section 15-3.

7 All election rate points shall be expressed as
8 decimal fractions rounded to the nearest hundred
9 thousandth[-];

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

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



1 candidate shall be tallied and the candidate with
2 the election rate point total shall be declared
3 the winner[-]; and

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

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

11 "(d) For purposes of this subpart, whenever a report is
12 required to be filed with the commission, "filed" means
13 electronically filed on the commission's electronic filing
14 system by the date and time specified for the filing of the
15 report by the:

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

18 (A) Office of governor;

19 (B) Office of lieutenant governor;

20 (C) Office of mayor;

21 (D) Office of prosecuting attorney;

22 (E) County council;



1 (F) Senate;

2 (G) House of representatives; or

3 (H) Office of Hawaiian affairs; [~~or~~

4 ~~(I) Board of education;~~]

5 or

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

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

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

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

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

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



- 1 (4) For the offices of state senator, state
2 representative, and county council member--\$1.40; and
3 (5) For [~~the offices of the board of education and~~] all
4 other offices--20 cents."

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

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

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

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

19 SECTION 8. Section 26-35.5, Hawaii Revised Statutes, is
20 amended by amending subsection (a) to read as follows:

21 "(a) For purposes of this section, "member" means any
22 person who is appointed, in accordance with the law, to serve on



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

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

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

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



1 (2) The directors of the state departments and their
2 deputies, regardless of the titles by which the
3 foregoing persons are designated; provided that with
4 respect to the department of the attorney general, the
5 foregoing shall apply only to the attorney general and
6 the first deputy attorney general;

7 (3) The administrative director of the State;

8 (4) The president, the vice presidents, the assistant vice
9 presidents, the chancellors, and the provosts of the
10 University of Hawaii;

11 (5) The members of the board of education, and the
12 superintendent, the deputy superintendent, the state
13 librarian, and the deputy state librarian of the
14 department of education;

15 (6) The administrative director and the deputy director of
16 the courts; and

17 (7) The administrator and the assistant administrator of
18 the office of Hawaiian affairs."

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

21 "[+]§84-41[+] **Applicability of part.** This part applies to
22 legislators, [~~elected~~] members of the board of education,



1 trustees of the office of Hawaiian affairs, the governor, the
2 lieutenant governor, and executive department heads and
3 deputies. This part does not apply to any other officer or
4 employee of the State."

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

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

15 SECTION 12. Section 302A-1101, Hawaii Revised Statutes, is
16 amended by amending subsection (a) to read as follows:

17 "(a) There shall be a principal executive department to be
18 known as the department of education, which shall be headed by
19 [~~an elected~~] a policy-making board to be known as the board of
20 education. The board shall have power in accordance with law to
21 formulate statewide educational policy, adopt student
22 performance standards and assessment models, monitor school



1 success, and [tø] appoint the superintendent of education as the
2 chief executive officer of the public school system."

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

5 "[+]§302A-1110[+] **Educational districts not applicable.**

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

11 SECTION 14. Section 17-6, Hawaii Revised Statutes, is
12 repealed.

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

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

20 (1) ~~If it occurs not later than on the sixtieth day prior~~
21 ~~to the next succeeding general election, the vacancy~~
22 ~~shall be filled for the unexpired term at the next~~



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

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

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



1 SECTION 15. 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 16. Section 302A-1106, Hawaii Revised Statutes, is
15 repealed.

16 [~~"§302A-1106 Organization; quorum; meetings. (a) The
17 board shall elect from its own membership a chairperson and a
18 vice chairperson. A majority of all members to which the board
19 is entitled shall constitute a quorum to do business and the
20 concurrence of a majority of all members to which the board is
21 entitled shall be necessary to make any action of the board
22 valid; provided that due notice shall have been given to all~~



1 ~~members of the board or a bona fide attempt shall have been made~~
2 ~~to give due notice to all members of the board to whom it was~~
3 ~~reasonably practicable to give due notice. Meetings shall be~~
4 ~~called and held, at the call of the chairperson or by a quorum,~~
5 ~~as often as may be necessary for the transaction of the~~
6 ~~department's business.~~

7 ~~(b) Chapter 92 notwithstanding, from the convening of the~~
8 ~~legislature in regular session to adjournment sine die of each~~
9 ~~regular session, and during each special session of the~~
10 ~~legislature, the board may file any notice that specifies only~~
11 ~~legislation or legislation-related agenda items, no fewer than~~
12 ~~two calendar days before the meeting."]~~

13 SECTION 17. Section 302A-1106.5, Hawaii Revised Statutes,
14 is repealed.

15 ~~["**[S302A-1106.5] Board of education; community meetings.**~~
16 ~~The board shall hold not less than two community meetings~~
17 ~~annually in each departmental school district in addition to~~
18 ~~their regular meetings to discuss and receive input from the~~
19 ~~community on public education and public library issues. The~~
20 ~~board chairperson shall designate board members to attend the~~
21 ~~community meetings. These community meetings shall not be held~~
22 ~~for the purpose of formulating educational policy. The~~



1 ~~community meetings shall be exempt from sections 92-2.5, 92-7,~~
2 ~~92-9, and 92-41, provided that the board shall give written~~
3 ~~public notice of each community meeting. The meeting notice~~
4 ~~shall indicate the date, time, and place of the meeting, and~~
5 ~~shall be filed in the office of the lieutenant governor and in~~
6 ~~the board's office for public inspection six calendar days~~
7 ~~before the meeting. The notice shall also be posted at the site~~
8 ~~of the meeting."]~~

9 SECTION 18. Chapter 13, Hawaii Revised Statutes, is
10 repealed.

11 PART IV

12 SECTION 19. Notwithstanding any law to the contrary, the
13 elected members of the board of education serving on the day of
14 the effective date of this Act shall continue to serve until the
15 appointment of five voting interim members of the board of
16 education, at which time the elected members are discharged from
17 office; provided that any vacancy occurring between the
18 effective date of this Act and the discharge from office of all
19 the elected members of the board of education, shall not be
20 filled.

21 SECTION 20. Except as provided in section 21 of this Act,
22 all employees, including secretarial staff and analysts, serving



1 the board of education on the day of the effective date of this
2 Act, shall continue to be exempt employees of the department of
3 education.

4 SECTION 21. On the day of the effective date of this Act,
5 the executive director of the board of education shall no longer
6 be an employee of the department of education and shall serve at
7 the pleasure of the board of education.

8 PART V

9 SECTION 22. The revisor of statutes shall insert the
10 effective date of this Act and the number of this Act in the
11 appropriate places in section 2 of this Act.

12 SECTION 23. In codifying the new sections added by section
13 2 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 the new sections in this Act.

16 SECTION 24. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 25. This Act shall take effect upon ratification
19 of the constitutional amendments requiring the members of the
20 board of education to be appointed; provided that Part III of
21 this Act shall take effect when the elected members of the board



1 of education are discharged from office pursuant to section 19
2 of this Act.

3
4

INTRODUCED BY:

Ed Pivner
[Signature]
[Signature]
[Signature]

Jim Utard
Chuan W. H. Chung
Guthrie Threlkeld
Barbara Marmato

JAN 21 2011



Report Title:

Board of Education; Appointment

Description:

Requires the members of the Board of Education to be nominated and, with the advice and consent of the Senate, appointed by the Governor.

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

