

ACT 182

An Act Relating to the Department of Education and Providing for the Election of Local Advisory School Councils.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. One of the purposes of this Act is to implement the state constitution by providing for the election of local school advisory councils beginning in 1962. However, for the immediate organization of the board of education, this Act provides that within 20 days of the approval of this Act members of the local school advisory councils shall be appointed by the chairman of the board of supervisors or the mayor of each respective county and city and county with the approval of the respective board of supervisors or city council. These members shall serve until the first Monday of December, 1962.

It is also the purpose of this Act to conform the Revised Laws of Hawaii 1955, as amended, to the Hawaii State Government Reorganization Act of 1959.

SECTION 2. The title to chapter 37, Revised Laws of Hawaii 1955, as amended, is hereby amended to read as follows :

**“CHAPTER 37
DEPARTMENT OF EDUCATION”**

SECTION 3. Amend chapter 37, Revised Laws of Hawaii 1955, as amended, as follows :

(a) Sections 37-1 to 37-5 are hereby repealed.

(b) Insert Sections 37-1 to 37-5.6 to read as follows :

“Sec. 37.1. Definitions. As used in chapters 37 to 42 :

‘Department’ means the department of education of the State.

‘Board’ means the board of education.

‘Member’ means a member of the board of education.

‘Superintendent’ means the superintendent of public instruction.

‘Councilor’ means a member of a local school advisory council.

Sec. 37-2. Department of education; board of education; superintendent of public instruction. There shall be a principal executive department to be known as the department of education which shall be headed by an executive board to be known as the board of education. The board of education shall have power in accordance with law to formulate policy and to exercise control over the public school system through its executive officer, the superintendent of public instruction. The superintendent of public instruction shall be appointed and may be removed by a majority vote of the members of the board appointed by the governor, and shall be an ex officio voting member of the board.

Sec. 37-3. Board members; appointment; tenure. The board of education shall consist of eleven members, one of whom, the superintendent shall be an ex officio voting member. Ten members of the board shall be nominated and, by and with the advice and consent of the senate, appointed by the governor from panels submitted by the local school advisory councils. The governor shall appoint the county representative member from the panel submitted by the particular county. The board shall be composed of two appointees who are qualified voters of the county of Hawaii (one each from the first and second senatorial districts), one appointee who is a qualified voter of the county of Maui, one appointee who is a qualified voter of Kauai, and 6 appointees who are qualified voters of the city and county of Honolulu (3 each from the fourth and fifth senatorial districts). Initially, five of the numbers shall be appointed for a term of two years, and five shall be appointed for a term of four years; provided that all such terms shall expire at noon on the first Monday in December of the year of their termination; upon the expiration of the terms of the members, their successors shall be appointed for a term of four years. In case of a vacancy occurring through any cause other than the expiration of the term of office, such vacancy shall be filled by appointment of a succeeding member for the remainder of the term for which his predecessor was appointed.

Sec. 37-3.5. Who eligible; expenses. Each member appointed by the governor shall have been a resident of the State or Territory for at least five years next preceding his appointment. Only members of a local school advisory council and such other additional persons nominated by the council as set forth in Section 37-4 shall be eligible for membership on the board.

No person shall be appointed to more than two consecutive terms as a member of the board, but he shall not be limited to two terms.

All members shall serve without pay but shall be entitled to reimbursement for necessary expenses while attending meetings and while in the discharge and responsibilities required by law.

Sec. 37-3.6. Organization; quorum; meetings. The board shall appoint any one of its members, except the superintendent, as chairman. Section 7-26 shall apply. At least one meeting shall be held in every other month of the year. Other meetings shall be held when deemed necessary for the transaction of the department's business on call by the chairman or by a quorum. Members shall be notified in writing at least seven days prior to the date set for such meeting. The chairman shall preside at the meetings but the members shall choose one of their members to act in his stead in case of his absence or disability. Six members at any board meeting shall constitute a quorum.

Sec. 37-4. Local school advisory councils; duties. A local school advisory council shall be established in each county. Whenever a vacancy occurs on the board of education the council of the county concerned shall submit to the governor a panel of nominees composed of its own membership, plus such other persons as hereinafter enumerated, for appointment to the board within 20 days after the date on which the vacancy occurs. In addition to its own membership, a council shall nominate additional persons as follows: the council of the county of Kauai shall nominate one other resident of the county of Kauai; the council of the county of Maui shall nominate two other residents of the county of Maui; the council of the county of Hawaii shall nominate two others, one of whom shall be a resident of the first senatorial district and the other a resident of the second senatorial district; the council of the city and county of Honolulu shall nominate five others, two of whom shall be residents of the fourth senatorial district, two residents of the fifth senatorial district, and one resident of the city and county of Honolulu, at-large. The additional persons nominated by any council shall not thereby be deemed to be a member of the council. Each council shall serve in an advisory capacity to the board of education and to such members of the board who represent the council's county.

Sec. 37-5. Size of councils; selection, tenure. The local school advisory council for the county of Hawaii shall consist of seven members. The voters of the first, third, fourth, and fifth representative districts shall each elect one member, respectively. The voters of the second representative district shall elect three members.

The local school advisory council for the city and county of Honolulu shall consist of fourteen members (seven each from the fourth and fifth senatorial districts).

The local school advisory council for the county of Maui shall consist of six members. The voters of the islands of Lanai and Molokai shall elect one member. The voters of the island of Maui shall elect five members.

The local school advisory council for the county of Kauai shall consist of four members.

Each member of each council shall be nominated by petition of at least twenty-five qualified voters of the district, island, or county from which the member is to be elected. The members shall be elected from such districts, island or county at either the primary or general election. Candidates receive

ing a majority of the total number of valid ballots cast in the primary election in the district, island, or county for the council shall be elected outright, provided, that if the number of candidates receiving a majority of the votes cast in the primary exceed the number of positions available, then only those receiving the highest number of votes to fill the available positions shall be elected outright. The remaining positions, if any, which are not filled during the primary election, shall be filled at the general election. At the general election, the names of the candidates not elected at the primary, receiving the highest number of votes shall appear on the ballots, provided, that the number of candidates appearing on the ballot for the general election shall not exceed twice the number of positions remaining to be filled. Ballots in the primary and general elections shall be separate. All candidates shall run without designation of political affiliation. All other provisions of the election laws not inconsistent with these provisions shall apply.

Of the councilors first elected for the county of Hawaii, some shall serve for four years and some shall serve for two years as follows:

(a) If the number of councilors elected outright is less than a majority of the total membership to which that council is entitled, then all those elected outright and those receiving the highest number of votes at the general election, enough to constitute a majority for that council shall serve for four years and the remaining members shall serve for two years.

(b) If the number of councilors elected outright is more than a majority of the total membership to which the council is entitled, then those elected outright who have the highest number of votes to constitute a majority for that council shall serve for four years and the remainder shall serve for two years.

(c) If the number of councilors elected outright is equal to a majority of the total membership to which the council is entitled, then they shall serve for four years and the remainder shall serve for two years.

(d) If none of the candidates are elected outright at the primary election, then a majority of those elected who received the highest number of votes shall serve for a term of four years and the remainder shall serve for a term of two years.

Of the councilors first elected for the counties of Kauai and Maui and the city and county of Honolulu, the same rules shall apply as for the county of Hawaii but as applied to half of the total membership of the council rather than to a majority of such membership.

Upon the expiration of the terms of the first councilors, their successors shall hold office for a term of four years. In case a vacancy occurs through the appointment of a council member to a full term on the board of education, the vacancy shall be filled by the person who received the highest number of votes among the losing candidates at the last general election, or, if there be none, then at the last primary election, held for council members in the district, island or county which the vacated seat on the council represents. If no person is eligible to fill the vacancy, the vacancy shall be filled by appointment by the chairman of the board of supervisors or the mayor of the county, by and with the advice and consent of the board of supervisors or the city council. In case a vacancy occurs through the appointment of a council member to fill an unexpired term on the board of education, or for any other cause other than the expiration of the term of office, such a vacancy shall be filled by appointment by the chairman of the board

of supervisors or the mayor of the county, by and with the advice and consent of the board of supervisors or the city council.

Sec. 37-5.5. Who eligible. Each candidate for the council shall be a qualified voter of the county and shall have been a resident of the State or Territory for at least five years next preceding his nomination.

Sec. 37-5.6. Organization; quorum; meetings. The council shall elect its own chairman for a two-year term. He shall not succeed himself, but he shall not be limited to one term. Each council may elect other officers that it may feel necessary for carrying out its functions.

Section 7-26 shall apply. Meetings shall be called and held, at the call of the chairman or a quorum, as often as may be necessary to carry out the foregoing functions. The chairman or the necessary quorum for meetings not called by the chair shall notify the other councilors in writing at least five days prior to the date set for any meeting.

The chairman shall preside at all meetings but the councilors shall choose one of their members to act in his stead in case of his absence or disability."

(c) Section 37-6. is hereby amended to read as follows:

"Sec. 37-6. Duties of superintendent. Under policies established by the board, the superintendent shall administer programs of education and public instruction throughout the State, including education at the pre-school, primary and secondary school levels, post high school vocational rehabilitation (until this function can be transferred to the department of social services without jeopardizing federal funds), health education and instruction, and such other programs as may be established by law.

Except as otherwise provided, the superintendent shall sign all drafts for the payment of moneys, all commissions and appointments, all deeds, official acts or other documents of the department. He shall, at such time as may be prescribed by the board, present to the board full annual reports of the principal transactions within the department during the last completed year, which reports together with such recommendations as the board may think proper, shall be presented to the governor and the legislature."

(d) Section 37-15.5 is hereby amended by deleting therefrom the words "commissioners" and by substituting therefor the word "board".

(e) Section 37-16 is hereby amended by deleting the words "commissioners of public instruction", "commissioners" and "bureau of public health statistics" and by substituting therefor the words "board of education", "board" and "department of health", respectively.

(f) Section 37-17 is hereby amended by deleting the words "treasurer", "commissioners of public instruction" and "commissioners" and by substituting therefor the words "director of finance", "board of education" and "board", respectively.

(g) Section 37-18 is hereby amended by deleting the words "department of public instruction" and "treasurer" and by substituting therefor the words "department of education" and "director of finance", respectively.

(h) Section 37-19 is hereby amended by deleting therefrom the words "department of public welfare" and by substituting therefor the words "department of social services".

(i) Sections 37-19.1, 37-19.2, 37-19.3 are hereby amended by deleting the words "division of vocational education" and "department of public instruction" and by substituting therefor the words "program of vocational education" and "department of education", respectively.

(j) Section 37-20 is hereby amended to read as follows:

"Sec. 37-20. Dental hygiene instruction. The department shall provide preventive dental hygiene instruction for the children of the State of school age in the public schools."

(k) Section 37-21 is hereby amended by deleting the word "commissioners" and by substituting therefor the word "board".

(l) Section 37-21.5 is hereby amended by deleting therefrom the words "department of public instruction" and by substituting therefor the words "department of education".

(m) Section 37-22 is hereby amended to read as follows:

"Sec. 37-22. Guidance services program. The department shall establish a guidance services program and engage staff to conduct the work at such salaries as may be established by the board with the approval of the governor and within the limits of the budget of the department as provided by the general appropriation act."

(n) Sections 37-23 and 37-25 are hereby amended by deleting therefrom the words "commissioners of public instruction" and "department of public instruction" and by substituting therefor the words "board" and "department", respectively.

SECTION 4. Within 20 days of the date of approval of this Act, each member of each local school advisory council shall be appointed by the chairman of the board of supervisors or the mayor of each respective county, by and with the advice and consent of the respective boards of supervisors or city council, or, in default thereof, by the governor. All councilors shall take office on the first Monday after their appointment and shall serve until the first Monday in December, 1962. Notwithstanding any section herein to the contrary, within 20 days after the councilors appointed pursuant to this section take office, they shall submit panels of nominees for positions on the board of education, which nominees shall not be subject to the requirement of the second sentence of the first paragraph of section 37-3.5.

SECTION 5. (a) Sections 37-5 and 37-5.5 of section 3 of this Act shall apply to the first primary and general elections to be held in 1962.

(b) The ballot for the election of the first councilors, if elected in the regular election, shall clearly indicate that councilors who are elected outright at the primary and who receive the highest number of votes in the general, as indicated in section 37-5 of section 3(b) of this Act, shall serve for four years while the remaining number of councilors shall serve for two years.

SECTION 6. Any appropriation for expenses of elections shall be expendable at any time for all the expenses of elections conducted under section 3(b) of this Act, including the necessary preparations therefor, as well as for purposes otherwise authorized. Such appropriations may be augmented by allotments made by the governor from the contingent fund for expenditure by the governor of Hawaii for the expenses of the elections conducted under section 3(b) of this Act.

SECTION 7. Section 38-38 of the Revised Laws of Hawaii 1955 is hereby amended by deleting the entire paragraph thereof and substituting therefor the following paragraph:

"The board of education, with the advice of the personnel classification board of the State, shall set job and salary classification for, and classify

all professional officers and employees in the department, including deputy superintendents of public instruction, district superintendents, vocational supervisors, and other professional officers and employees in the department, who are not covered by the schedule in section 38-31, which shall be subject to approval by the legislature. The board of education shall adopt fair and reasonable procedures and rules for the rating of the efficiency of such officers and employees.”

SECTION 8. This Act shall take effect upon its approval.

(Approved July 11, 1961.) **S.B. 9.**
