

ACT 50

A Bill for an Act Relating to Education and Making an Appropriation Therefor.

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

SECTION 1. This Act is hereby declared to be an urgency measure deemed necessary in the public interest within the meaning of section 11 of Article III of the Constitution of the State of Hawaii.

The following is a statement of the facts constituting such urgency:

The legislature proposed and the electorate, in 1964, ratified an amendment to the Constitution of the State of Hawaii which provides for an elected school board. If school board members are to be

elected during the elections to be held in 1966, it is urgent and in the public interest that the constitutional amendment be implemented in this budget session.

SECTION 2. The educational districts established by section 10-1 of the Revised Laws of Hawaii 1955, as amended, shall not be applicable to nor alter the school board districts established by this Act.

SECTION 3. Section 37-1 of the Revised Laws of Hawaii 1955, as amended by section 3 of Act 175 of the Session Laws of Hawaii 1965 is hereby amended by deleting the word "local" from the definition of the word "Councilor" and by substituting therefor the word "district."

SECTION 4. Sections 37-2, 37-3, 37-3.5, 37-3.6, 37-4, 37-5, 37-5.1, 37-5.5 and 37-5.6, Revised Laws of Hawaii 1955, as amended, are hereby repealed.

SECTION 5. Chapter 37 of the Revised Laws of Hawaii 1955, as amended, is hereby amended by adding the following sections, to be appropriately designated, and to read as follows:

"Sec. 37- . Department of education; board of education; superintendent of education. There shall be a principal executive department to be known as the department of education which shall be headed by an elected executive board to be known as the board of education. The board 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 education. The superintendent shall be appointed and may be removed by a majority vote of the members of the board and shall serve as secretary of the board.

Sec. 37- . Board members; districts; composition. The board of education shall consist of eleven members. Eight members shall be elected by the qualified voters of the respective school board districts and three members shall be elected at-large in the City and County of Honolulu. The school board districts, the at-large district and the number of members to be elected from each, shall be as follows:

First school board district (Hawaii): the island of Hawaii comprising the first, second, third, fourth and fifth representative districts, two members;

Second school board district (Maui): the islands of Maui, Molokai (including the county of Kalawao), Lanai and Kahoolawe comprising the sixth and seventh representative districts, one member;

Third school board district (Honolulu): that portion of the island of Oahu comprising the twelfth, thirteenth, fourteenth, fifteenth, sixteenth and seventeenth representative districts and the second, third, fourth, fifth, sixth, seventh, ninth, tenth, eleventh and twelfth precincts of the eleventh representative district, one member;

Fourth school board district (Central Oahu): that portion of the island of Oahu comprising the ninth representative district, the sev-

enth, eleventh, twelfth and thirteenth precincts of the tenth representative district and the first and eighth precincts of the eleventh representative district, one member;

Fifth school board district (Leeward Oahu): that portion of the island of Oahu comprising the tenth representative district, except the seventh, eleventh, twelfth and thirteenth precincts thereof, one member;

Sixth school board district (Windward Oahu): that portion of the island of Oahu comprising the eighth representative district, one member;

At large district (Oahu): the City and County of Honolulu, three members; and

Seventh school board district (Kauai): the islands of Kauai and Niihau comprising the eighteenth representative district, one member.

Sec. 37- . Election of members; term; vacancies. Except as otherwise provided by this Act, the candidates for the board of education shall be nominated, the election conducted, the returns made and results ascertained, and the certificates of election issued, in the same manner as prescribed by the provisions of the law governing primary and general elections.

Candidates shall be nominated by petition filed at least thirty days prior to such election and shall contain the signatures of at least twenty-five qualified voters of the board district. There shall be deposited with each nomination a fee of \$25 which shall be paid into the treasury of the State. The lieutenant governor shall provide appropriate nomination papers.

The ballots for the election of the members of the board of education shall be separate from all other ballots. The ballot in the primary shall contain columns which shall be designated as Democratic, Republican, Nonpartisan or for any other party. The names of all candidates shall be printed thereon, in their respective party or nonpartisan column, in alphabetical order.

Each voter at the primary election shall be entitled to receive a ballot nominating the members of the board of education, notwithstanding the provisions of section 11-102.5, Revised Laws of Hawaii 1955, as amended. Each voter in the primary shall be entitled to vote for the number of seats available for such board districts, and, as the case may be, for such at large district, and each voter shall vote only for candidates listed in one column. If a ballot is marked in any manner contrary to the provisions of this Act, then such ballot and all it contains shall be rejected.

The names of the candidates in each column of the primary ballot receiving the greatest number of votes, not to exceed the number of members to which such board district and, as the case may be, such at large district are entitled, shall appear on the general election ballot. The name of the candidate with the highest number of votes in the primary election shall be listed at the top of the general election ballot. Other candidates shall be listed in descending order according to the number of votes they received in the primary election.

The term of office of members of the board shall be four years

beginning on the day of the general election of the year in which they are elected and ending on the day of the second general election after their election. Members of the board may be re-elected without restriction as to the number of terms.

Any vacancy that may occur through any cause other than the expiration of the term of office shall be filled by the governor in the same manner provided for the filling of a vacancy in the membership of the state senate; the appointee shall be a non-partisan if the person he succeeds was a non-partisan.

Sec. 37- . Qualifications; compensation; expenses. No person shall be eligible for election or appointment to the board unless he is a registered voter of the board district or the at-large district from which he is to be elected or appointed. No member of the board shall hold any other public office under the state or county governments. The term 'public office', for the purposes of this section, shall not include notaries public, reserve police officers or officers of emergency organizations for civilian defense or disaster relief.

Members shall be allowed: (1) compensation at the rate of \$50 per day for each day's actual attendance at meetings; (2) transportation fares between islands and abroad, and (3) personal expenses at the rate of \$25 per day for board and lodging while attending board meetings on an island other than the island in which his board district is located or while traveling abroad on official business when authorized by the chairman. All payments for compensation, travel and expenses shall be paid by warrants signed by the chairman of the board of education.

Sec. 37- . Organization; quorum; meetings. The board shall elect from its own membership a chairman and a vice-chairman. A majority of all members to which the board is entitled shall constitute a quorum to do business and the concurrence of a majority of all members to which the board is entitled shall be necessary to make any action of the board valid; provided that due notice shall have been given to all members of the board or a bona fide attempt shall have been made to give such notice to all members to whom it was reasonably practicable to give such notice. Meetings shall be called and held, at the call of the chairman or by a quorum, as often as may be necessary for the transaction of the department's business.

Sec. 37- . District school advisory councils; duties. There shall be a district school advisory council in each school board district. The number of members on the district school advisory council in the respective school board districts shall be as follows:

- First school board district (Hawaii) : seven members;
- Second school board district (Maui) : five members;
- Third school board district (Honolulu) : five members;
- Fourth school board district (Central Oahu) : five members;
- Fifth school board district (Leeward Oahu) : five members;
- Sixth school board district (Windward Oahu) : five members;
- Seventh school board district (Kauai) : five members.

Any law to the contrary notwithstanding, the governor shall appoint the members of each school advisory council. Not more than a

bare majority (one-half plus one) of the members of each district school advisory council shall belong to the same political party or shall be non-partisan members. Each councilor shall serve for a term commencing upon his appointment and ending upon the expiration of the term of office of the governor. In addition to the number of members set forth herein, each member of the board of education shall be an ex-officio, non-voting member of the district school advisory council of his school board district, provided that all of the at-large members of Oahu shall be ex-officio, non-voting members of each of the district school advisory councils on Oahu.

Each district school advisory council shall serve in an advisory capacity to the board of education and to the member of the board of education from its district.

Sec. 37- . Eligibility; expenses. Each councilor appointed by the governor shall be a registered voter of his board district. No councilor shall hold any other public office under the state or county governments. The term 'public office', for the purposes of this section, shall not include notaries public, reserve police officers, officers of emergency organizations for civilian defense or disaster relief or county charter commissions.

Councilors shall serve without pay but shall be reimbursed for necessary expenses while attending meetings and while in the discharge of their responsibilities. Payments for expenses shall be made by warrants signed by the chairman of the district school advisory council.

Sec. 37- . Organizations; quorum; meetings. Each council shall elect its own chairman and may elect other officers that may be necessary to effectively carry 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 its functions."

SECTION 6. The elected board of education provided for in this Act shall succeed to all of the rights and powers exercised, and all of the duties and obligations incurred by the present board, whether such rights, powers, duties and obligations are mentioned in or granted by any law, contract or other document. All references in any such law, contract or document to the present board shall apply to the elected board as if the latter were specifically named in such law, contract or document in place of the present board.

All records, equipment, files, supplies, contracts, books, papers, documents, maps, appropriations and other property heretofore made, used, acquired or held by the present board shall be transferred to the elected board.

The right to appeal to or from the actions or determinations of the present board as provided by law shall not be impaired by this Act.

No employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefit or privilege as a consequence of this Act; provided that subsequent changes in status may be made pursuant to chapters 3 and 4 of the Revised Laws of Hawaii 1955, as amended.

SECTION 7. All laws or parts of laws heretofore enacted which are in conflict with the provisions of this Act are hereby amended to conform herewith.

SECTION 8. The first election of the board shall be held in 1966 at the same time as elections are held for other state officers. The members of the present board of education shall continue to exercise and discharge the powers and duties of the board of education until their successors have been qualified in accordance with this Act.

SECTION 9. There is hereby appropriated from the general revenues of the State, not otherwise appropriated, the sum of \$30,000, or so much thereof as may be necessary, for the expenses of the 1966 elections of the board of education.

SECTION 10. This Act shall take effect upon its approval.
(Pursuant to Article III, section 17, this Act became law on May 17, 1966, without the governor's signature.) **H.B. 2.**