

ACT 125

H.B. NO. 38

A Bill for an Act Relating to the Board of Education.

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

SECTION 1. Chapter 13, Hawaii Revised Statutes, is amended to read as follows:

1. Section 13-1 is amended to read:

“Sec. 13-1 Board members; number. (a) The board of education shall consist of thirteen members who shall be elected by the registered voters of two at-large school board districts as follows:

First school board district: the island of Oahu, comprised of the seventh through the twenty-sixth representative districts, and the

Second school board district: the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai, and Niihau, comprised of the first through the sixth and the twenty-seventh representative districts.

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

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

the second departmental school district (Maui), and one shall be a resident of the seventh departmental school district (Kauai).

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

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

Second departmental school district (Maui): the islands of Maui, Molokai (including the county of Kalawao), Lanai, and Kahoolawe comprising the fifth and sixth representative districts;

Third departmental school district (Honolulu): that portion of the island of Oahu comprising the seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, and eighteenth representative districts;

Fourth departmental school district (Central Oahu): that portion of the island of Oahu comprising the twentieth and twenty-second representative districts;

Fifth departmental school district (Leeward Oahu): that portion of the island of Oahu comprising the nineteenth and twenty-first representative districts;

Sixth departmental school district (Windward Oahu): that portion of the island of Oahu comprising the twenty-third, twenty-fourth, twenty-fifth, and twenty-sixth representative districts; and

Seventh departmental school district (Kauai): the islands of Kauai and Niihau comprising the twenty-seventh representative district."

2. Section 13-2 is amended to read:

"Sec. 13-2 Qualifications. No person shall be eligible for election or appointment to the board of education unless he is a registered voter of the school board district from which he is to be elected or appointed and, where residency in a particular departmental school district is a requirement, a resident of the departmental school district for which seat he is seeking election or appointment. 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."

3. Section 13-3 is amended to read:

"Sec. 13-3 Election of members. (a) Members of the board of education shall be elected at a special election held in conjunction with the general election. Except as otherwise provided by this chapter, the candidates for the board of education shall be elected in the manner prescribed by this title.

(1) Nomination papers, preparation of. The chief election officer shall prepare the nomination papers in such a manner that a candidate desiring to file for election to the board of education shall be able to specify whether he is seeking a seat requiring residency in a particular departmental school district or a seat without such residency requirement.

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

The school board ballot shall contain the names of all board candidates arranged alphabetically in a nonpartisan manner; provided that the

names of candidates seeking seats requiring residency in a particular departmental school district shall also be grouped according to departmental school districts.

Each voter in the general election shall be entitled to receive the school board ballot and to vote for the number of seats available in the respective school board districts.

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

4. Section 13-4, Hawaii Revised Statutes, is repealed.

5. Section 13-5 is renumbered 13-4 and is amended to read:

"Sec. 13-4 Board members; term, vacancies. The term of office of members of the board shall be for 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 accordance with section 17- ."

SECTION 2. Chapter 17, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 17- Board of education members. (a) Whenever any vacancy in the membership of the board of education occurs, the term of which ends at the next succeeding general election, the governor shall make an appointment to fill the vacancy for the unexpired term.

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

(1) If it occurs not later than on the tenth day prior to the next succeeding general election, the vacancy shall be filled for the unexpired term at the next succeeding general election. The chief election officer shall issue a proclamation designating the election for filling the vacancy. All candidates for the unexpired term shall be elected in accordance with this title. Pending the election the governor shall make a temporary appointment to fill the vacancy and the person so appointed shall serve until the election of the person duly elected to fill such vacancy.

(2) If it occurs after tenth day prior to the next succeeding general election, the governor shall make an appointment to fill the vacancy for the unexpired term.

(c) All appointments made by the governor under this section shall be made without consideration of the appointee's party affiliation or preference or nonpartisanship."

SECTION 3. Chapter 11, Hawaii Revised Statutes, is amended to read as

follows:

1. Section 11-61 is amended by amending subsection (b) to read:

“(b) Any party which does not meet the following requirements shall be subject to disqualification:

- (1) A party must have had candidates running for election at the last general election for any of the offices listed in paragraphs (2) to (5) whose terms had expired. This does not include those offices which were vacant because the incumbent had died or resigned before the end of his term;
 - (2) The party received at least ten percent of all votes cast for any of the offices voted upon by all the voters in the State; or,
 - (3) The party received at least ten percent of all the votes cast in at least fifty per cent of the congressional districts; or,
 - (4) The party received at least ten per cent of all the votes cast in at least fifty per cent of the senatorial districts for the office of state senator; or,
 - (5) The party received at least ten per cent of all the votes cast in at least fifty per cent of the representative districts for the office of state representative.”
2. Section 11-72 is amended to read:

“Sec. 11-72 Precinct officials; submission of names and assignment; vacancies. All qualified political parties shall submit names for precinct officials to the chief election officer not later than 4:30 p.m. on the sixtieth day prior to the close of filing for any primary, special primary, or special election. All precinct officials shall be able to read and write the English language. If any party shall fail to submit the required names by the above deadline, the chief election officer may fill such positions with available qualified persons.

In assigning the precinct officials the following criteria shall be followed:

- (1) The precinct officials shall be registered voters of the precinct in which they serve; but if qualified persons in the precinct or representative district are not readily available to serve, they may be chosen from without the precinct or representative district.
- (2) The chief election officer may designate more precinct officials than are needed in order to create a pool of qualified precinct officials who may be assigned to fill vacancies or to perform such duties as needed in any precinct.
- (3) No parent, spouse, child, or sibling of a candidate shall be eligible to serve as a precinct official in any precinct in which votes may be cast for the candidate; nor shall any candidate for any elective office be eligible to serve as a precinct official in the same election in which he is a candidate. No candidate who failed of nomination in the primary or special primary election shall be eligible to serve as a precinct official in the general election next following.
- (4) The chairman of the precinct officials shall be of the same party as the governor and shall be the first named precinct official on the list prepared by the chief election officer. The remainder of the precinct officials shall be apportioned as follows:
 - (A) The total votes cast, except those cast for nonpartisan candidates, for all of the following offices which were on the ballot in the next

preceding general election shall be divided into the total votes cast for all the candidates of each party for such offices: president and vice-president, United States senator, United States representative, governor and lieutenant governor, state senator, and state representative.

- (B) In the event that a party's proportion of votes cast exceeds fifty per cent, its share shall be one-half of the precinct officials. The remaining one-half shall be divided among the remaining parties in proportion to their respective total of votes cast for the offices set forth in subparagraph (A).
- (C) In the case of the above division resulting in parties having fractional positions a whole position shall go to the party with the larger number of votes cast.
- (D) Newly qualified parties may be assigned up to ten per cent of the total positions available at the discretion of the chief election officer.

In case of inability, failure, or refusal of any person so assigned to serve as a precinct official the chief election officer shall, so far as reasonably practicable, appoint a person to fill the vacancy from the same party as that of the person to be replaced. In case of doubt as to the party of a precinct official the chief election officer shall use first, the party membership list; then, the primary registration; then, the person's word for his party affiliation."

SECTION 4. Section 12-23, Hawaii Revised Statutes, is repealed.

SECTION 5. **Severability.** If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the provision to other persons and circumstances shall not be affected thereby and further, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.*

SECTION 7. This Act shall take effect upon its approval; provided, however, that the amendments to section 13-1 and 13-2 shall take effect on November 4, 1980; and provided further, however, that the four-year term of office specified in section 13-5 shall apply to members of the board of education elected at the general election of November, 1980, and thereafter.

(Approved May 26, 1979.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.