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H.B. NO. 33

A Bill for an Act Relating to Public Libraries.

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

SECTION 1. Section 26-12, Hawaii Revised Statutes, is amended to read as follows:

“§26-12 Department of education. The department of education shall be headed by an executive board to be known as the board of education.

Under policies established by the board, the superintendent shall administer programs of education and public instruction throughout the State, including education at the preschool, primary and secondary school levels, adult education, school library services, health education and instruction (not including dental health treatment transferred to the department of health), and such other programs as may be established by law. The state librarian, under policies established by the board of education, shall be responsible for the administration of programs relating to public library services and transcribing services for the blind.

The functions and authority heretofore exercised by the department of public instruction (except dental health treatment transferred to the department of health),

library of Hawaii, Hawaii county library, Maui county library, and the transcribing services program of the bureau of sight conservation and work with the blind, as heretofore constituted are transferred to the public library system established by this chapter.

The management contract between the board of supervisors of the county of Kauai and the Kauai public library association shall be terminated at the earliest time after November 25, 1959, permissible under the terms of the contract and the provisions of this paragraph shall constitute notice of termination, and the functions and authority heretofore exercised by the Kauai county library as heretofore constituted and the Kauai public library association over the public libraries in the county of Kauai shall thereupon be transferred to the public library system established by this chapter.

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

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

There shall be within the public library system a commission in each county to be known as the library advisory commission for the county which shall in each case sit in an advisory capacity to the board of education on matters relating to public library services in the respective county. Each commission shall consist of not less than seven and no more than eleven members."

SECTION 2. Section 93-1, Hawaii Revised Statutes, is amended to read as follows:

"§93-1 Establishment of state publications distribution center. There shall be established within the public library system under the direction of the state librarian a state publications distribution center for depositing and distributing government publications and for promoting an orderly depository library system for state and county publications."

SECTION 3. Sections 93-5, Hawaii Revised Statutes, is amended to read as follows:

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

SECTION 4. Chapter 296, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§296- Public library system; board of education control. The board of education, through the state librarian, shall have direct control of the public library system, but not including school libraries. The board may adopt rules under chapter 91 for the purpose of this section."

SECTION 5. Section 312-1, Hawaii Revised Statutes, is amended to read as follows:

"§312-1 Duties of the board of education. The board of education shall care for, manage, and control all property set apart, donated, loaned to, or in any manner acquired for the use of libraries; receive, care for, expend, and account for any money which may be received for the purpose of erecting buildings for libraries or for any other purposes of the libraries; collect, purchase, receive gifts of, and otherwise acquire all books and other publications proper for libraries, and arrange, classify, and catalogue the same; provide for their safekeeping; expend moneys appropriated by the legislature and otherwise acquired for the development, use, support, and maintenance of libraries; provide ways and means for placing libraries within reach of all residents throughout the State and particularly of all public and private school children; provide and maintain branch libraries, offices, or places for the distribution of books and periodicals throughout the State; make such contracts as may be necessary to carry into effect the general duties herein imposed; appoint such officers and employees as it deems necessary; and make rules for the management and use of libraries, and for the control of the property under its management."

SECTION 6. Section 312-2, Hawaii Revised Statutes, is amended to read as follows:

"§312-2 Powers of board; special fund. The board of education may make such arrangements or contracts as are approved by the governor, with any county, city, association, society, person, or persons, for the purpose of benefiting the libraries and increasing their facilities and use; subject to section 26-12, enter into such arrangement or contract as is approved by the governor, with the Friends of the Library of Hawaii, for the purpose of obtaining the use of books and property and income of the Friends of the Library of Hawaii; cooperate by exchange and otherwise with libraries now existing or hereafter to be formed; receive, use, manage, or invest moneys or other property, real, personal, or mixed which may be given, bequeathed, devised, or in any manner received from sources other than the legislature or any federal appropriation for any or all purposes of the libraries; deposit with the director of finance in a special fund all moneys donated to the board for library services; unless otherwise provided for by the terms and conditions of the donation, convert, at such time as the board may at its sole discretion determine, any or all donations of property, real, personal, or mixed, into money to be deposited into the special fund; expend the moneys in the special fund in accordance with the terms and conditions of each donation for the purposes of the libraries. The board shall be the trustee of the special fund and all moneys therein shall be deemed to have been appropriated to the use and for the purposes of the board in providing library services. Nothing in this section shall be construed to limit the powers and duties of the board hereinbefore expressed, or to empower the board to obligate the State financially in any sum which shall not have been appropriated by the legislature for the use of the board."

SECTION 7. Section 312-2.1, Hawaii Revised Statutes, is amended to read as follows:

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

shall be appointed by the board of education, shall be under the direction of the board, and shall be responsible for the operation, planning, programming, and budgeting of all community/school and public libraries within the State. Notwithstanding any other law to the contrary, the salary of the state librarian shall be set by the board of education and shall be the same as that of an assistant superintendent of education."

SECTION 8. Section 312-3, Hawaii Revised Statutes, is amended to read as follows:

"§312-3 Exchange of librarians. The board of education may contract for the exchange of librarians with librarians of any state, country, or territory in accordance with this section, except as otherwise provided in section 76-37. Local librarians so exchanged shall be paid their regular salaries out of the funds appropriated for personal services in the library budget for the library concerned. The qualifications of all librarians from any such state, country, or territory so exchanged shall be equal to those of the local librarians exchanged. In the selection of local librarians for exchange, preference shall be given to persons born in the State. The requirements of citizenship shall not apply to any librarian coming to the State from any foreign state, country, or territory under any such contract of exchange. All librarians so exchanged shall furnish their own transportation to and from the state, country, or territory with which exchanged.

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

SECTION 9. Section 312-3.5, Hawaii Revised Statutes, is amended to read as follows:

"§312-3.5 Wilful detention of books and other library materials; penalty. A person who wilfully and knowingly detains a book, newspaper, plate, picture, photograph, engraving, painting, drawing, map, magazine, document, letter, public record, microform, sound recording, audio visual materials in any format, magnetic or other tapes, artifacts, or other documentary (written or printed) materials belonging to any library or similar institution controlled by the State for seven days after the mailing date of a written notice forwarded to his last known address, from the librarian or designated representative, that such books or library materials are to be returned to the library or institution, shall be subject to a nominal charge established by the board of education.

A person detaining such books or library materials thirty days after the mailing of the written notice shall be subject to a charge commensurate with the replacement value of the books or library materials."

SECTION 10. Section 312-5, Hawaii Revised Statutes, is amended to read as follows:

"§312-5 Annual report to the governor. Annually during the month of July

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but as of June 30 preceding, the board of education shall report to the governor the moneys received from all sources and expended for all purposes during the preceding year, and any other matters pertaining to the libraries which it may deem important, or the governor may require.”

SECTION 11. Statutory material to be repealed is bracketed. New material is underscored.*

SECTION 12. This Act shall take effect upon its approval.

(Approved June 16, 1981.)

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