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H.B. NO. 2123

A Bill for an Act Relating to Education.

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

SECTION 1. Hawaii's statewide system has been the envy of mainland states for its ability to equally apportion money between rich and poor, urban and

rural schools. But the centralization standard has become a burden for Hawaii parents who want their schools to adapt to local needs.

The need for reform has been discussed for many years. In 1988, the Berman Report, commissioned by business leaders, recommended that school buildings be renovated and new ones built. The next year, the legislature enacted a law establishing a seven-year, \$630,000,000 school facility fund.

The key Berman recommendation, however, was reform of school governance. The report states that "the lines of authority overlap, so that everyone is responsible, so no one is." The Advertiser, in its editorial of July 14, 1991, described the system as nonsensical: "[a]n elected school board sets policies and hires and fires the schools' superintendent. The department of education carries out the board's instructions. The board also recommends a budget, but it is usually cut by the governor before it even goes to the legislature. The legislature appropriates funds often substituting its own goals and programs for those of the board and governor. Ultimately, the governor decides whether to allocate the money under what terms."

The Task Force on Educational Governance has worked many hours, researching and attending numerous hearings. The legislature recognizes the Task Force's important work and would like to continue the Task Force's work by implementing some of its recommendations.

In response to public hearings and comments, the legislature seeks to reform governance by making the governor and the legislature responsible and accountable.

SECTION 2. Article X of the Constitution of the State of Hawaii is amended by amending section 3 to read as follows:

"POWER OF THE BOARD OF EDUCATION

Section 3. The board of education shall have the power, as provided by law, to formulate [policy and to exercise control over the public school system through its executive officer, the superintendent of education, who shall be appointed by the board; except that the board] policy, set goals, and establish standards for the public school system. The superintendent of education shall be appointed by the governor, with the advice and consent of the senate. The superintendent shall have jurisdiction and control over the internal organization, operations, and management of the public school system, as provided by law, and shall exercise [its jurisdiction] such authority in a manner consistent with general laws."

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall the board of education's powers be limited to formulating policy, setting goals, and establishing standards for the public schools; and shall the superintendent of education be appointed by the governor, with the advice and consent of the senate?"

SECTION 4. Article X of the Constitution of the State of Hawaii is amended to read as follows:

1. By amending section 2 to read:

“BOARD OF EDUCATION

Section 2. There shall be a board of education composed of members who shall be [elected in a nonpartisan manner by qualified voters, as provided by law, from two at-large school board districts.] appointed by the governor from two school board districts, with the advice and consent of the senate. The first school board district shall be comprised of the island of Oahu and all other islands not specifically enumerated. The second school board district shall be comprised of the islands of Hawaii, Maui, Lanai, Molokai, Kahoolawe, Kauai and Niihau. Each [at-large] school board district shall be divided into departmental school districts, as may be provided by law. There shall be at least one member residing in each departmental school district. The Hawaii State Student Council shall select a public high school student to serve as a nonvoting member on the board of education.”

2. By amending section 3 to read:

“POWER OF THE BOARD OF EDUCATION

Section 3. The board of education shall have the power, as provided by law, to formulate [policy and exercise control over the public school system through its executive officer, the superintendent of education, who shall be appointed by the board; except that the board] policy, set goals, and establish standards for the public school system. The superintendent of education shall be appointed by the governor, with the advice and consent of the senate. The superintendent shall have jurisdiction and control over the internal organization, operations, and management of the public school system, as provided by law, and shall exercise [its jurisdiction] such authority in a manner consistent with general laws.”

SECTION 5. The question to be printed on the ballot shall be as follows:

“Shall the board of education be appointed by the governor, with the advice and consent of the senate; the board of education’s powers be limited to formulating policy, setting goals, and establishing standards for the public schools; and the superintendent of education be appointed by the governor, with the advice and consent of the senate?”

SECTION 6. In conjunction with the 1992 primary election, the lieutenant governor shall submit the following two separate questions to the electorate with instructions that each voter select one of the two questions:

“1. Shall the board of education’s powers be limited to formulating policy, setting goals, and establishing standards for the public schools; and shall the superintendent be appointed by the governor, with the advice and consent of the senate?”

“2. Shall the board of education be appointed by the governor, with the advice and consent of the senate; the board of education’s powers be limited to formulating policy, setting goals, and establishing standards for the public schools; and the superintendent be appointed by the governor, with the advice and consent of the senate?”

SECTION 7. Sections 2 and 3 of this Act shall take effect only if the first question posed to the electorate pursuant to section 6 of this Act receives the most votes cast. Sections 4 and 5 of this Act shall take effect only if the second question posed to the electorate pursuant to section 6 of this Act receives the most votes cast.

SECTION 8. Section 37-36, Hawaii Revised Statutes, is amended to read as follows:

“§37-36 Modification. The director of finance may at any time modify or amend any previous allotment upon application of, or upon notice to, the department or establishment concerned; provided that for the University of Hawaii or the department of education, the director of finance may modify or amend any previous allotment only upon application of the university or the department of education, or upon notice to the university or the department of education, and [the approval of the governor] upon public declaration which shall be ten days prior to the modification or amendment taking effect; provided further that the modification [is necessary] or amendment shall be made only to avoid an illegal result[.] or in anticipation of a revenue shortfall; provided further that no deficit or undue reduction of funds to meet future needs of the department or establishment will result therefrom; and provided further that no modification or amendment reduces an allotment below the amount required to meet valid obligations or commitments previously incurred against the allotted funds.”

SECTION 9. Section 37-37, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) For the University of Hawaii or the department of education, when the director of finance determines at any time that the probable receipts from taxes or any other sources for any appropriation will be less than was anticipated, and that consequently the amount available for the remainder of the term of the appropriation or for any allotment period will be less than the amount estimated or allotted therefor, the director shall advise the governor of the situation, and the governor shall redetermine the allotment ceiling for the affected source or sources of funding pursuant to section 37-34, and shall advise the university or the department of education, as applicable, [of] and make a public declaration ten days prior to the effective date of the redetermination. The university or the department of education, within twenty days of the governor’s notification, shall submit revised estimates consistent with the governor’s redetermination to the director of finance; otherwise, the director of finance shall modify, amend, or reduce any allotment of the university or the department of education, as applicable, to comply with the governor’s redetermination; provided that no reduction reduces any allotted amount below the amount required to meet valid obligations or commitments previously incurred against the allotted funds.”

SECTION 10. Section 296-2, Hawaii Revised Statutes, is amended to read as follows:

“§296-2 Department of education; board of education; superintendent of education. (a) 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

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accordance with law to formulate policy, [and to exercise control over the public school system through its executive officer, the superintendent of education.] set goals, and establish standards for the public school system.

(b) [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.] The superintendent shall have jurisdiction and control over the internal organization, operations, and management of the public school system."

SECTION 11. The department of education shall develop a modified lump-sum budgeting plan only for direct student/school allocations. The plan shall contain procedures, processes, and standards of accountability for implementing lump-sum budgeting and proposed legislation to implement the plan. The plan shall be submitted to the legislature twenty days prior to the convening of the regular session of 1993.

SECTION 12. Constitutional and statutory material to be repealed is bracketed. New constitutional and statutory material is underscored.

SECTION 13. The amendments to Article X, section 2 and 3 of the Constitution of the State of Hawaii shall take effect upon compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

SECTION 14. This Act shall take effect upon its approval.

(Approved June 29, 1992.)