

ACT 187

H.B. NO. 1175

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

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

SECTION 1. Section 302A-101¹, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:
““Complex area superintendent” means the chief administrative officer of a complex area and the school complexes therein.”

SECTION 2. Section 26-53, Hawaii Revised Statutes, is amended to read as follows:

“§26-53 Deputies or assistants to department heads. [(a)] Effective January 1, 1989, and January 1, 1990, the salaries of deputies or assistants to the head of any department of the State, other than the department of education, shall be set by the governor within the range from \$69,748 to \$74,608 and \$72,886 to \$77,966 a year, respectively.

~~[(b) Effective January 1, 1989, and January 1, 1990, the salary of the deputy to the superintendent of education shall be \$81,629 and \$85,302 a year, respectively.]”~~

SECTION 3. Section 76-16, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The civil service to which this chapter applies shall comprise all positions in the State now existing or hereafter established and embrace all personal services performed for the State, except the following:

- (1) Commissioned and enlisted personnel of the Hawaii national guard as such, and positions in the Hawaii national guard that are required by state or federal laws or regulations or orders of the national guard to be filled from those commissioned or enlisted personnel;

- (2) Positions filled by persons employed by contract where the director of human resources development has certified that the service is special or unique or is essential to the public interest and that, because of circumstances surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures. Any such contract may be for any period not exceeding one year;
- (3) Positions that must be filled without delay to comply with a court order or decree if the director determines that recruitment through normal recruitment civil service procedures would result in delay or noncompliance, such as the Felix-Cayetano consent decree;
- (4) Positions filled by the legislature or by either house or any committee thereof;
- (5) Employees in the office of the governor and office of the lieutenant governor, and household employees at Washington Place;
- (6) Positions filled by popular vote;
- (7) Department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor or are required by law to be confirmed by the senate;
- (8) Judges, referees, receivers, masters, jurors, notaries public, land court examiners, court commissioners, and attorneys appointed by a state court for a special temporary service;
- (9) One bailiff for the chief justice of the supreme court who shall have the powers and duties of a court officer and bailiff under section 606-14; one secretary or clerk for each justice of the supreme court, each judge of the intermediate appellate court, and each judge of the circuit court; one secretary for the judicial council; one deputy administrative director of the courts; three law clerks for the chief justice of the supreme court, two law clerks for each associate justice of the supreme court and each judge of the intermediate appellate court, one law clerk for each judge of the circuit court, two additional law clerks for the civil administrative judge of the circuit court of the first circuit, two additional law clerks for the criminal administrative judge of the circuit court of the first circuit, one additional law clerk for the senior judge of the family court of the first circuit, two additional law clerks for the civil motions judge of the circuit court of the first circuit, two additional law clerks for the criminal motions judge of the circuit court of the first circuit, and two law clerks for the administrative judge of the district court of the first circuit; and one private secretary for the administrative director of the courts, the deputy administrative director of the courts, each department head, each deputy or first assistant, and each additional deputy, or assistant deputy, or assistant defined in paragraph (16);
- (10) First deputy and deputy attorneys general, the administrative services manager of the department of the attorney general, one secretary for the administrative services manager, an administrator and any support staff for the criminal and juvenile justice resources coordination functions, and law clerks;
- (11) (A) Teachers, principals, vice-principals, [~~district~~] complex area superintendents, [~~chief~~] deputy and assistant superintendents, other certificated personnel, not more than twenty noncertificated administrative, professional, and technical personnel not engaged in instructional work;
- (B) Effective July 1, 2003, teaching assistants, educational assistants, bilingual/bicultural school-home assistants, school psycholo-

- gists, psychological examiners, speech pathologists, athletic health care trainers, alternative school work study assistants, alternative school educational/supportive services specialists, alternative school project coordinators, and communications aides in the department of education;
- (C) The special assistant to the state librarian and one secretary for the special assistant to the state librarian; and
 - (D) Members of the faculty of the University of Hawaii, including research workers, extension agents, personnel engaged in instructional work, and administrative, professional, and technical personnel of the university;
- (12) Employees engaged in special, research, or demonstration projects approved by the governor;
 - (13) Positions filled by inmates, kokuas, patients of state institutions, persons with severe physical or mental handicaps participating in the work experience training programs, and students and positions filled through federally funded programs that provide temporary public service employment such as the federal Comprehensive Employment and Training Act of 1973;
 - (14) A custodian or guide at Iolani Palace, the Royal Mausoleum, and Hulihee Palace;
 - (15) Positions filled by persons employed on a fee, contract, or piecework basis, who may lawfully perform their duties concurrently with their private business or profession or other private employment and whose duties require only a portion of their time, if it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State;
 - (16) Positions of first deputies or first assistants of each department head appointed under or in the manner provided in section 6, Article V, of the State Constitution; three additional deputies or assistants either in charge of the highways, harbors, and airports divisions or other functions within the department of transportation as may be assigned by the director of transportation, with the approval of the governor; four additional deputies in the department of health, each in charge of one of the following: behavioral health, environmental health, hospitals, and health resources administration, including other functions within the department as may be assigned by the director of health, with the approval of the governor; an administrative assistant to the state librarian; and an administrative assistant to the superintendent of education;
 - (17) Positions specifically exempted from this part by any other law; provided that all of the positions defined by paragraph (9) shall be included in the position classification plan;
 - (18) Positions in the state foster grandparent program and positions for temporary employment of senior citizens in occupations in which there is a severe personnel shortage or in special projects;
 - (19) Household employees at the official residence of the president of the University of Hawaii;
 - (20) Employees in the department of education engaged in the supervision of students during meal periods in the distribution, collection, and counting of meal tickets, and in the cleaning of classrooms after school hours on a less than half-time basis;
 - (21) Employees hired under the tenant hire program of the housing and community development corporation of Hawaii; provided that not more than twenty-six per cent of the corporation's work force in any housing

project maintained or operated by the corporation shall be hired under the tenant hire program;

- (22) Positions of the federally funded expanded food and nutrition program of the University of Hawaii that require the hiring of nutrition program assistants who live in the areas they serve;
- (23) Positions filled by severely handicapped persons who are certified by the state vocational rehabilitation office that they are able to perform safely the duties of the positions;
- (24) One public high school student to be selected by the Hawaii state student council as a nonvoting member on the board of education as authorized by the State Constitution;
- (25) Sheriff, first deputy sheriff, and second deputy sheriff;
- (26) A gender and other fairness coordinator hired by the judiciary; and
- (27) Positions in the Hawaii national guard youth challenge academy.

The director shall determine the applicability of this section to specific positions.

Nothing in this section shall be deemed to affect the civil service status of any incumbent as it existed on July 1, 1955."

SECTION 4. Section 84-17, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The following persons shall file annually with the state ethics commission a disclosure of financial interests:

- (1) The governor, the lieutenant governor, the members of the legislature, and delegates to the constitutional convention; provided that delegates to the constitutional convention shall only be required to file initial disclosures;
- (2) The directors and their deputies, the division chiefs, the executive directors and the executive secretaries and their deputies, the purchasing agents and the fiscal officers, regardless of the titles by which the foregoing persons are designated, of every state agency and department;
- (3) The permanent employees of the legislature and its service agencies, other than persons employed in clerical, secretarial, or similar positions;
- (4) The administrative director of the State, and the assistants in the office of the governor and the lieutenant governor, other than persons employed in clerical, secretarial, or similar positions;
- (5) The hearings officers of every state agency and department;
- (6) The president, the vice presidents, assistant vice presidents, the chancellors, and the provosts of the University of Hawaii and its community colleges;
- (7) The superintendent, the deputy superintendent, the assistant superintendents, the [district] complex area superintendents, the state librarian, and the deputy state librarian of the department of education;
- (8) The administrative director and the deputy director of the courts;
- (9) The members of every state board or commission whose original terms of office are for periods exceeding one year and whose functions are not solely advisory; provided that the governor's special advisory council for technology development established pursuant to section 27-42 not otherwise subject to this subsection shall be exempt from this subsection;

- (10) Candidates for state elective offices, including candidates for election to the constitutional convention, provided that candidates shall only be required to file initial disclosures; and
- (11) The administrator and assistant administrator of the office of Hawaiian affairs.”

SECTION 5. Section 302A-412, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each secondary public school, upon the approval of the principal and the ~~[district] complex area~~ superintendent, may allow on the premises vending machines operated as a concession; provided that the concession shall be operated only by a blind or visually handicapped person, as defined in sections 235-1, 347-1, and 347-2. The location and operation of the vending machines and the items dispensed shall be approved by the department.”

SECTION 6. Section 302A-438, Hawaii Revised Statutes, is amended to read as follows:

“~~[§302A-438]~~ **Facilities, service, when required.** Where one or more exceptional children are found in any one ~~[district] complex area~~ superintendent’s district, the superintendent of education shall provide instruction, special facilities, and special services according to the specifications of sections 302A-436 to 302A-443 in a manner most expedient and economical.”

SECTION 7. Section 302A-604, Hawaii Revised Statutes, is amended to read as follows:

“~~[§302A-604]~~ **District Complex area superintendents.** The superintendent of education, with the approval of the board, shall appoint ~~[district] complex area~~ superintendents for schools. The complex area superintendents shall supervise the delivery of administrative and instructional support services within their respective complex areas, including:

- (1) Personnel, fiscal, and facilities support;
- (2) Monitoring of compliance with applicable state and federal laws; and
- (3) Curriculum development, student assessment, and staff development services.”

SECTION 8. Section 302A-621, Hawaii Revised Statutes, is amended to read as follows:

“~~[§302A-621]~~ **Salary; deputy superintendent, assistant superintendents, [district superintendents, deputy district] complex area superintendents.** The salaries of the deputy superintendent, assistant superintendents, ~~[district superintendents, and deputy district]~~ and complex area superintendents shall be set by the board ~~[Effective July 1, 1991, the salaries of deputy district superintendents shall be not less than \$65,683 nor more than \$72,886 a year.]; provided that the salaries of the deputy superintendent, assistant superintendents, and the complex area superintendents shall not exceed eighty per cent of the superintendent’s salary.~~”

SECTION 9. Section 302A-1130, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) If the principal, upon a hearing on the charges, has reasonable cause to believe that the pupil is responsible for the loss, destruction, breakage, or damage of school books, equipment, or supplies, the principal shall design a restitution program

that shall be submitted to the pupil and the pupil's parents or guardian for agreement in writing.

If restitution is made in this fashion, then no information about the charges, the hearing, and the actions taken shall be communicated to any person not directly involved in the proceedings.

If the pupil and parent or guardian do not agree with the determination made by the principal, the principal shall report to the [district] complex area superintendent the determination and the findings made by the principal, including all the records and documents regarding the investigation, for any further action."

SECTION 10. Section 302A-1134, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) If for any reason a child becomes a detriment to the morals or discipline of any school, the child may be precluded from attending school by the principal, with the approval of the [district] complex area superintendent. The department shall seek the active participation of other public and private agencies in providing help to these children before and after they have left school. An appeal may be taken on behalf of the child to the superintendent of education within ten days from the date of such action."

SECTION 11. Section 302A-1153, Hawaii Revised Statutes, is amended by amending subsections (d) and (e) to read as follows:

"(d) At the conference, the principal of the school in which the vandalism occurred shall present the findings of the investigation and the requirements of restitution to the pupil and parents or guardian.

If the pupil and the parents or guardian agree with the findings of the principal and the manner in which restitution is to be made, the principal and the pupil and parent or guardian shall execute a written agreement which shall specify the manner in which restitution is to be made.

Agreements shall be made only for damages that do not exceed \$3,500.

If restitution is made in this fashion, then no information about the investigation, conference, and the actions taken shall be communicated to any person not directly involved in the proceedings.

If the pupil and parent or guardian do not agree with the findings made by the principal, the principal shall report the findings, including all the records and documents regarding the investigation and conference, to the [district] complex area superintendent, who shall review the findings and may refer the matter to the attorney general for any further action pursuant to section 577-3.

(e) If the damages exceed \$3,500, the principal shall report the matter to the [district] complex area superintendent, who shall refer the matter to the attorney general for any further action pursuant to section 577-3."

SECTION 12. Section 302A-1308, Hawaii Revised Statutes, is amended to read as follows:

"[~~§~~302A-1308] **Use of resources by schools.** School principals shall consult with teachers, parents, and students to solicit their advice on the use of moneys and positions. Prior to expending moneys and implementing position assignments, principals shall submit plans for the use of the moneys and positions to their [district] complex area superintendents who shall review the plans for conformance with departmental policies and rules. Upon approval of the plans, moneys may be expended by the principals for supplies, textbooks, equipment, and services. Positions may be used to meet the unique needs of the schools."

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SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 14. This Act shall take effect on July 1, 2003.

(Approved June 17, 2003.)

Note

1. "302A-101" substituted for "302-101".