Public Law 90-292

AN ACT

April 22, 1968
[H. R. 13042]

To amend the Act of June 20, 1906, and the District of Columbia election law to provide for the election of members of the Board of Education of the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

District of Columbia Elected Board of Education Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "District of Columbia Elected Board of Education Act."

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds and declares that the school is a focal point of neighborhood and community activity; that the merit of its schools and educational system is a primary index to the merit of the community; and that the education of their children is a municipal matter of primary and personal concern to the citizens of a community. It is therefore the purpose of this Act to give the citizens of the Nation's Capital a direct voice in the development and conduct of the public educational system of the District of Columbia; to provide organizational arrangements whereby educational programs may be improved and coordinated with other municipal programs; and to make District schools centers of neighborhood and community life.

AMENDMENTS TO DISTRICT OF COLUMBIA BOARD OF EDUCATION LAW

SEC. 3. (a) Section 2 of the Act entitled "An Act to fix and regulate the salaries of teachers, school officers, and other employees of the board of education of the District of Columbia", approved June 20, 1906 (D.C. Code, sec. 31-101), is amended by striking out the first paragraph of subsection (a) and inserting in lieu thereof the following:

34 Stat. 316; 71 Stat. 340.

"SEC. 2. (a) The control of the public schools of the District of Columbia is vested in a Board of Education to consist of eleven elected members, three of whom are to be elected at large, and one to be elected from each of the eight school election wards established under the District of Columbia Election Act. The election of the members of the Board of Education shall be conducted on a nonpartisan basis and in accordance with such Act.

Members, election.

69 Stat. 699; *Post*, p. 106. D.C. Code 1-1101 *et seq.*

"(b)(1) Except as provided in paragraph (2) of this subsection and section 10(e) of the District of Columbia Election Act, the term of office of a member of the Board of Education shall be four years.

Term of office. *Post*, p. 106.

"(2) Of the members of the Board of Education first elected after the date of the enactment of this paragraph, three members elected from wards and two members elected at large shall serve for terms ending January 26, 1970, and the other six members shall serve for terms ending January 24, 1972. The members who shall serve for terms ending January 26, 1970, shall be determined by lots cast before the Board of Elections of the District of Columbia upon a date set and pursuant to regulation issued by the Board of Elections.

"(3) The term of office of a member of the Board of Education elected at a general election shall begin at noon on the fourth Monday in January next following such election. A member may serve more than one term.

"(4) The members may receive compensation at a rate fixed by the District of Columbia Council, which shall not exceed $1,200 per annum.

Compensation.

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Qualifications.

69 Stat. 699; 75 Stat. 820. D.C. Code 1-1102.

"(c)(1) Each member of the Board of Education elected from a ward shall at the time of his nomination (A) be a qualified elector (as that term is defined in section 2 of the District of Columbia Election Act) in the school election ward from which he seeks election, (B) have, for the one-year period immediately preceding his nomination, resided in the school election ward from which he is nominated, (C) have, during the three years next preceding his nomination, been an actual resident of the District of Columbia and have during such period claimed residence nowhere else, and (D) hold no elective office other than delegate or alternate delegate to a convention of a political party nominating candidates for President and Vice President of the United States. A member shall forfeit his office upon failure to maintain the qualifications required by this paragraph.

"(2) Each member of the Board of Education elected at large shall at the time of his nomination (A) be a qualified elector (as that term is defined in section 2 of the District of Columbia Election Act) in the District of Columbia, (B) have, during the three-year period next preceding his nomination, been an actual resident of the District of Columbia and have during such period claimed residence nowhere else, and (C) hold no elective office other than delegate or alternate delegate to a convention of a political party nominating candidates for President and Vice President of the United States. A member shall forfeit his office upon failure to maintain the qualifications required by this paragraph.

"(3) No individual may hold the office of member of the Board of Education and also be an officer or employee of the District of Columbia government or of the Board of Education. A member will forfeit his office upon failure to maintain the qualification required by this paragraph.

Vacancies.

"(d) Whenever, before the end of his term, a member of the Board of Education dies, resigns, or becomes unable to serve or a member-elect of the Board of Education fails to take office, such vacancy shall be filled as provided in section 10(e) of the District of Columbia Election Act.

Post, p. 106.

Officers; meetings.

"(e) The Board of Education shall select a President from among its members at the first meeting of the Board of Education held on or after the date (prescribed in paragraph (3) of subsection (b) of this section) on which members are to take office after each general election. The Board of Education may appoint a secretary, who shall not be a member of the Board of Education. The Board of Education shall hold stated meetings at least once a month during the school year and such additional meetings as it may from time to time provide for. Meetings of the Board of Education shall be open to the public; except that the Board of Education (1) may close to the public any meeting (or part thereof) dealing with the appointment, promotion, transfer, or termination of employment of, or any other related matter involving, any employee of the Board of Education, and (2) may close to the public any meeting (or part thereof) dealing with any other matter but no final policy decision on such other matter may be made by the Board of Education in a meeting (or part thereof) closed to the public."

Post, p. 103.

(b) The second, third, fourth, and fifth paragraphs of such section 2(a) are redesignated as subsections (f), (g), (h), and (i), respectively.

Repeal.

71 Stat. 341. D.C. Code 31-101.

(c) Subsection (b) of such section 2 is repealed.

(d)(1) The provisions of the Act of June 20, 1906, listed in paragraph (2) of this subsection, are amended by striking out the terms "board of education" and "board" each place they appear in such provisions and inserting in lieu thereof "Board of Education" and "Board", respectively.

(2) The provisions of the Act of June 20, 1906, amended by paragraph (1) of this subsection are as follows:

(A) Subsections (f), (g), (h), and (i) of section 2 of such Act (as so redesignated by subsection (b) of this section) (D.C. Code, secs. 31-102, 31-103, 31-104, 31-101).

34 Stat. 317; 45 Stat. 1139.

(B) Section 3 of such Act (D.C. Code, secs. 31-105, 31-108, 31-110, 31-111).

(C) The first paragraph of section 5 of such Act (D.C. Code, sec. 31-112).

(D) Section 12 of such Act (D.C. Code, sec. 31-117).

AMENDMENTS TO DISTRICT OF COLUMBIA ELECTION LAW

SEC. 4. The Act entitled "An Act to regulate the election in the District of Columbia of electors of President and Vice President of the United States and of delegates representing the District of Columbia to national political conventions, and for other purposes", approved August 12, 1955 (D.C. Code, sec. 1-1101 et seq.), is amended as follows:

(1) The first section of such Act (D.C. Code, sec. 1-1101) is amended by inserting immediately after "Vice President of the United States" the following: ", the members of the Board of Education,".

69 Stat. 699; 75 Stat. 817.

(2) Section 2 of such Act (D.C. Code, sec. 1-1102) is amended by adding at the end thereof the following new paragraphs:

"Ward."

"(4) The term 'ward' means a school election ward established by the Board under section 5(a)(4) of this Act.

"Board of Education."

"(5) The term 'Board of Education' means the Board of Education of the District."

School election wards.

(3) Paragraph (4) of section 5(a) of such Act (D.C. Code, sec. 1-1105(a)(4)) is amended by inserting immediately before the semicolon the following: "; divide the District into eight compact and contiguous school election wards which shall include such numbers of precincts as will provide approximately equal population within each ward; and reapportion the wards accordingly after each decennial census".

Registration.

(4) Section 7 of such Act (D.C. Code, sec. 1-1107) is amended—

75 Stat. 817.

(A) by striking out in subsection (a) "he registers in the District during the year in which such election is to be held." and inserting in lieu thereof "he is duly registered in the District on the date of such election. A person shall be considered duly registered in the District if he registers under this Act after January 1, 1968, and if after the date he registers no four-year period elapses during which he fails to vote in an election held under this Act.";

69 Stat. 701; 75 Stat. 818.

(B) by amending subsection (d) to read as follows:

"(d)(1) The registry shall be open during reasonable hours, except that the registry shall not be open (A) during the thirty-day period ending on the first Tuesday following the first Monday in November of each odd-numbered calendar year and of each presidential election year, (B) during the thirty-day period ending on the first Tuesday in May in each presidential election year, and (C) during such other period as the Board may provide in the case of a special election.

"(2) The Board may close the registry on Saturdays, Sundays, and holidays. While the registry is open, any person may apply for registration or change his registration."; and

(C) by striking out in subsection (e) "Municipal Court for the District of Columbia" and inserting in lieu thereof "District of Columbia Court of General Sessions".

Nominations.

(5) Section 8 of such Act (D.C. Code, sec. 1-1108) is amended—

69 Stat. 701.

(A) by striking out in subsection (a)(1) "thirty days" and inserting in lieu thereof "forty-five days"; and

69 Stat. 701; 75 Stat. 818, 819.

(B) by adding the following new subsections at the end thereof:

"(h)(1) Except in the case of the three members of the Board of Education elected at large, the members of the Board of Education shall be elected by the qualified electors of the respective wards of the District from which the members have been nominated.

"(2) In the case of the three members of the Board of Education elected at large, each such member shall be elected by the qualified electors of the District.

Petitions, requirements; filing fee.

"(i) Each candidate in a general election for member of the Board of Education shall be nominated for such office by a petition (A) filed with the Board not later than forty-five days before the date of such general election; (B) signed by at least two hundred and fifty persons who are duly registered under section 7 in the ward from which the candidate seeks election, or in the case of a candidate running at large, signed by at least one hundred and twenty-five persons in each ward of the District who are duly registered in such ward; and (C) accompanied by a filing fee of $100. Such fee may be refunded only in the event that the candidate withdraws his nomination by writing received by the Board not later than three days after the date on which nominations are closed. A nominating petition for a candidate in a general election for member of the Board of Education may not be circulated for signatures before the ninety-ninth day preceding the date of such election and may not be filed with the Board before the seventieth day preceding such date. The Board may prescribe rules with respect to the preparation and presentation of nominating petitions and the posting and disposition of filing fees. In a general election for members of the Board of Education, the Board shall arrange the ballots in each ward to enable a voter registered in that ward to vote for any one candidate duly nominated to be elected to such office from such ward, and to vote for as many candidates duly nominated for election at large to such office as there are Board of Education members to be elected at large in such election.

Ante, p. 103.

Petitions, posting.

"(j)(1) The Board is authorized to accept any nominating petition for a candidate for any office as bona fide with respect to the qualifications of the signatories thereto if the original or facsimile thereof has been posted in a suitable public place for the ten-day period beginning on the forty-second day before the date of the election for such office.

Challenge.

Any qualified elector may within such ten-day period challenge the validity of any petition by a written statement duly signed by the challenger and filed with the Board and specifying concisely the alleged defects in such petition. Copy of such challenge shall be sent by the Board promptly to the person designated for the purpose in the nominating petition.

"(2) The Board shall receive evidence in support of and in opposition to the challenge and shall determine the validity of the challenged nominating petition not more than eight days after the challenge has been filed. Within three days after announcement of the determination of the Board with respect to the validity of the nominating petition, either the challenger or any person named in the challenged petition as a nominee may apply to the District of Columbia Court of Appeals for a review of the reasonableness of such determination. The court shall expedite consideration of the matter and the decision of such court shall be final and not appealable.

Appeal.

"(k) In any election, the order in which the names of the candidates for office appear on the ballot shall be determined by lot, upon a date or dates and under regulations prescribed by the Board."

Absentee voting.

(6) Section 9 of such Act (D.C. Code, sec. 1-1109) is amended—

75 Stat. 819.

(A) by striking out "for electors of President and Vice President" in the second sentence of subsection (b); and

(B) by striking out "Municipal Court for the District of Columbia" in subsection (e) and inserting "District of Columbia Court of General Sessions".

(7) Section 10 of such Act (D.C. Code, sec. 1-1110) is amended—

Elections.

(A) by striking out the second and third sentences of paragraph (1) of subsection (a) and the second sentence of paragraph (2) of such subsection;

69 Stat. 702; 75 Stat. 819.

(B) by adding at the end of subsection (a) the following new paragraphs:

"(3) The first general election for members of the Board of Education shall be held on November 5, 1968, and thereafter on the Tuesday next after the first Monday in November of each odd-numbered calendar year.

Runoffs.

"(4)(A) If in a general election for members of the Board of Education no candidate for the office of member from a ward, or no candidate for the office of member elected at large (where only one at-large position is being filled at such election), receives a majority of the votes validly cast for such office, a runoff election shall be held on the twenty-first day next following such election. The candidate receiving the highest number of votes in such runoff election shall be declared elected.

"(B) When more than one office of member elected at large is being filled at such a general election, the candidates for such offices who receive the highest number of votes shall be declared elected, except that no candidate shall be declared elected who does not receive a majority of the number of all votes cast for candidates for election at large in such election divided by the number of at-large offices to be filled in such election. Where one or more of the at-large positions remains unfilled, a runoff election shall be held as provided in subparagraph (A) of this paragraph, and the candidate or candidates receiving the highest number of votes in such runoff election shall be declared elected.

"(C) Where a vacancy in an unexpired term for an at-large position is being filled at the same general election as one or more full term at-large positions, the successful candidate or candidates with the highest number of votes in the general election, or in the runoff election if a runoff election is necessary, shall be declared elected to the full term position or positions, provided that any candidate declared elected at the general election shall for this purpose be deemed to have received a higher number of votes than any candidate elected in the runoff election.

"(D) The Board may resolve any tie vote occurring in an election governed by this paragraph by requiring the candidates receiving the tie vote to cast lots at such time and in such manner as the Board may prescribe.

"(5) In the case of a runoff election for the office of member of the Board of Education elected at large, the candidates in such runoff election shall be those unsuccessful candidates, in number not more than one more than the number of such offices to be filled, who in the general election next preceding such runoff election received the highest number of votes less than a majority. In the case of a runoff election for the office of member of the Board of Education from a ward, the runoff election shall be held in such ward, and the two candidates who in the general election next preceding such runoff election received respectively the highest number and the second highest number of votes validly cast in such ward or who tied in receiving the highest number of such votes shall run in such runoff election. If in any case (other than the one described in the preceding sentence) a tie vote must be resolved to determine the candidates to run

in any runoff election, the Board may resolve such tie vote by requiring the candidates receiving the tie vote to cast lots at such time and in such manner as the Board may prescribe.

"(6) If any candidate withdraws (in accordance with such rules and time limits as the Board shall prescribe) from a runoff election held to select a member of the Board of Education or dies before the date of such election, the candidate who received the same number of votes in the general election next preceding such runoff election as a candidate in such runoff election or who received a number of votes in such general election which is next highest to the number of votes in such general election received by a candidate in the runoff election and who is not a candidate in such runoff election shall be a candidate in such runoff election. The resolution of any tie necessary to determine the candidate to fill the vacancy caused by such withdrawal or death shall be resolved by the Board in the same manner as ties are resolved under paragraph (5)."

69 Stat. 702. D.C. Code 1-1110.

(C) by amending subsection (b) to read as follows:

"(b) All elections prescribed by this Act shall be conducted by the Board in conformity with the provisions of this Act. In all elections held pursuant to this Act the polls shall be open from 8 o'clock antemeridian to 8 o'clock postmeridian. Candidates receiving the highest number of votes in elections held pursuant to this Act, other than general elections for members of the Board of Education, shall be declared the winners.";

(D) by inserting after "In the case of a tie" in subsection (c) the following: "vote in any election other than an election for members of the Board of Education,";

(E) by inserting after "official" in subsection (d) the following: ", other than a member of the Board of Education,"; and

(F) by adding at the end thereof the following new subsection:

Vacancies.

"(e) Whenever a vacancy occurs in the office of member of the Board of Education, such vacancy shall be filled at the next general election for members of the Board of Education which occurs more than ninety-nine days after such vacancy occurs. However, the Board of Education shall appoint a person to fill such vacancy until the unexpired term of the vacant office ends or until the fourth Monday in January next following the date of the election of a person to serve the remainder of such unexpired term, whichever occurs first. A person elected to fill a vacancy shall hold office for the duration of the unexpired term of office to which he was elected. Any person appointed under this subsection shall have the same qualifications for holding such office as were required of his immediate predecessor."

69 Stat. 703.

(8) The first sentence of section 11(b) of such Act (D.C. Code, sec. 1-1111(b)) is amended by striking out "the United States District Court for the District of Columbia" and inserting in lieu thereof "the District of Columbia Court of Appeals".

Dual nominations, prohibition.

(9) The following new sections shall be added at the end of such Act:

"SEC. 15. No person shall be a candidate for more than one office on the Board of Education in any election for members of the Board of Education. If a person is nominated for more than one such office, he shall, within three days after the Board has sent him notice that he has been so nominated, designate in writing the office for which he wishes to run, in which case he will be deemed to have withdrawn all other nominations. In the event that such person fails within such three-day period to file such a designation with the Board, all such nominations of such person shall be deemed withdrawn.

Citation of act.

"SEC. 16. This Act may be cited as the 'District of Columbia Election Act'."

COORDINATION WITH THE DISTRICT OF COLUMBIA GOVERNMENT

SEC. 5. (a) The Board of Education and the Commissioner of the District of Columbia shall jointly develop procedures to assure the maximum coordination of educational and other municipal programs and services in achieving the most effective educational system and utilization of educational facilities and services to serve broad community needs. Such procedures shall cover such matters as—

(1) design and construction of educational facilities to accommodate civic and community activities such as recreation, adult and vocational education and training, and other community purposes;

(2) full utilization of educational facilities during nonschool hours for community purposes;

(3) utilization of municipal services such as police, sanitation, recreational, maintenance services to enhance the effectiveness and stature of the school in the community;

(4) arrangements for cost-sharing and reimbursements on school and community programs involving utilization of educational facilities and services; and

(5) other matters of mutual interest and concern.

(b) The Board of Education may invite the Commissioner of the District of Columbia or his designee to attend and participate in meetings of the Board on matters pertaining to coordination of educational and other municipal programs and services and on such other matters as may be of mutual interest.

EFFECTIVE DATE AND TERMINATION OF OFFICE

SEC. 6. (a) The amendments made by this Act shall take effect on May 15, 1968, except that—

(1) the Board of Education of the District of Columbia, appointed under the Act of June 20, 1906 (as in effect on the date of the enactment of this Act), shall continue to exercise the powers, functions, duties vested in it under such Act (as in effect on such date);

34 Stat. 316. D.C. Code 31-101 *et seq.*

(2) vacancies in such Board shall be filled by appointment in accordance with such Act (as in effect on such date); and

(3) the members of such Board appointed under such Act (as in effect on such date) shall continue in office;

until such time as at least six of the members first elected to the Board of Education (under such Act as amended by this Act) take office.

Approved April 22, 1968.

Public Law 90-293

AN ACT

To grant the masters of certain United States vessels a lien on those vessels for their wages.

April 25, 1968 [H. R. 14401]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the master of a vessel documented, registered, enrolled, or licensed under the laws of the United States shall have the same lien for his wages against such vessel and the same priority as any other seaman serving on such vessel.

Vessels. Masters' liens for wages.

(b) Sections 4546 and 4547 of the Revised Statutes of the United States (46 U.S.C. 603 and 604) shall not apply in any proceeding brought by a master for the enforcement of the lien granted by this section.