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# A BILL FOR AN ACT

RELATING TO EDUCATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that with in-migration  
2 and the aging of our population, among other things, the  
3 demographics of the state are evolving. Over the past 25 years,  
4 the statewide population has increasingly shifted from the urban  
5 core to the suburbs, especially on Oahu, where the population  
6 center has steadily moved to the western side of the island.  
7 Meanwhile, some of the areas in the State with the fastest-  
8 growing populations are Kihei, Maui, and West Hawaii. These  
9 demographic shifts have overburdened public school facilities in  
10 growing areas and left some public school facilities in other  
11 areas underused. Thus, the legislature believes there is a need  
12 to revitalize school facilities statewide, including building or  
13 expanding schools in certain areas and consolidating or closing  
14 schools in other areas.

15           However, the legislature finds that despite broad-based  
16 public recognition of Hawaii's changing demographics, there is  
17 often little public support for changes that affect specific



1 constituencies. In particular, this is true of proposals to  
2 close or consolidate public schools to maximize resources.

3 The legislature recognizes the difficulties, political and  
4 otherwise, inherent in these decisions. But in the face of  
5 increasing educational priorities, the legislature believes that  
6 just as the construction or expansion of some schools is  
7 important, the consolidation or closure of other schools is also  
8 necessary. It is important that any actions to do so be taken  
9 through a very objective and transparent process that benefits  
10 the greatest number of public school students and their  
11 families.

12 The purpose of this Act is to revitalize school facilities  
13 statewide and to more effectively and efficiently use our  
14 taxpayers' investment in public education. Specifically, this  
15 Act provides for the timely construction, expansion,  
16 consolidation, or closure of underused public schools in Hawaii  
17 through an objective and transparent process that:

18 (1) Includes the establishment of a facilities alignment  
19 commission that shall:

20 (A) Establish criteria for the selection of public  
21 schools to be constructed, expanded,  
22 consolidated, or closed; and



1 (B) Recommend, based upon these criteria, a list of  
2 areas for new school construction, and of schools  
3 for expansion, consolidation, or closure, which  
4 is subject to the review of the legislature; and

5 (2) Directs the board of education to proceed with the  
6 process of constructing, expanding, consolidating, or  
7 closing underused schools according to the  
8 recommendations of the facilities alignment  
9 commission, if the legislature does not disapprove of  
10 the recommendations in their entirety.

11 SECTION 2. Facilities alignment commission. (a) There is  
12 established the facilities alignment commission, to be attached  
13 to the department of education for administrative purposes. The  
14 commission shall:

15 (1) Establish criteria for the selection of public schools  
16 to be constructed, expanded, consolidated, or closed;

17 (2) Recommend, based upon these criteria, a list of areas  
18 for new school construction, and of schools for  
19 expansion, consolidation, or closure, as provided in  
20 this Act;

21 (3) Direct the board of education to proceed with the  
22 process of constructing, expanding, consolidating, or



- 1 closing underused schools according to the  
2 recommendations of the commission, as provided in this  
3 Act;
- 4 (4) Explore funding mechanism alternatives to ensure that  
5 funds derived from the consolidation or closure of  
6 schools are redirected back to benefit the affected  
7 school or schools or the department of education, as  
8 appropriate;
- 9 (5) Develop procedures or guidelines for executing  
10 memoranda of agreement or memoranda of understanding  
11 with the counties, other departments, or entities  
12 regarding property on which affected schools are  
13 located with regard to those properties disposition;  
14 and
- 15 (6) Develop procedures or guidelines, with the assistance  
16 of the department of the attorney general, regarding  
17 boilerplate language, terms, and conditions associated  
18 with the sale or lease of property on which affected  
19 schools are located.
- 20 (b) The commission shall be composed of nine members  
21 appointed by the governor; provided that:



- 1           (1) Three members shall be appointed from a list of  
2           nominees submitted by the president of the senate, of  
3           which two shall be persons with professional  
4           experience in education, including former or current  
5           teachers or administrators; and
- 6           (2) Three members shall be appointed from a list of  
7           nominees submitted by the speaker of the house of  
8           representatives, of which two shall be persons with  
9           professional experience in education, including former  
10          or current teachers or administrators.
- 11          (c) The chairperson of the commission shall be selected by  
12          the members of the commission.
- 13          (d) A majority of the commission's membership shall be  
14          comprised of persons with professional experience in education,  
15          including current or former teachers or administrators.
- 16          (e) At least one member shall be a representative of the  
17          department of education.
- 18          (f) With the sole exception of those who are education  
19          professionals, members of the commission shall not be employees  
20          of the State.
- 21          (g) Any substantive action taken by the commission  
22          pursuant to sections 4 through 6 of this Act shall be approved



1 by a two-thirds vote of its members. For all other actions of  
2 the commission, five members shall constitute a quorum to do  
3 business, of which a majority vote shall suffice.

4 (h) The commission shall be exempt from chapter 91, Hawaii  
5 Revised Statutes, but shall be subject to chapters 92 and 92F,  
6 Hawaii Revised Statutes.

7 (i) The members of the commission shall serve without  
8 compensation but shall be reimbursed for expenses necessary for  
9 the performance of their duties, including travel expenses.

10 (j) The department of education shall provide  
11 administrative support to the commission. The commission shall  
12 have access to all records in the department of education and  
13 department of accounting and general services pertinent to its  
14 duties and may request research and analysis assistance from the  
15 department of education. Pursuant to chapter 92F, Hawaii  
16 Revised Statutes, the commission shall maintain the  
17 confidentiality of all confidential information.

18 (k) The commission shall terminate upon adjournment of the  
19 regular legislative session of 2010, sine die.

20 SECTION 3. Procedures for making recommendations for  
21 school alignment; school facilities plan. (a) The department  
22 of education shall submit to the commission by December 31,



1 2008, a school facilities plan. The school facilities plan  
2 shall be based on the department's assessment of the projected  
3 student enrollment for public schools in critical areas in the  
4 State, other than for charter schools, including high-growth or  
5 steadily declining population areas. In conducting the  
6 assessment, the department shall:

- 7 (1) Consider the six-year program and financial plan  
8 prepared pursuant to section 37-69, Hawaii Revised  
9 Statutes, to the extent it is applicable;
- 10 (2) Develop and consider a projection of the enrollment at  
11 each school across the State and the resulting need  
12 for facilities; and
- 13 (3) Consider other reliable data relative to population  
14 growth and trends, and anticipated levels of funding  
15 necessary for every school.
- 16 (b) The school facilities plan shall include:
- 17 (1) A description of the assessment of projected student  
18 enrollment pursuant to subsection (a);
- 19 (2) A comprehensive inventory of all department of  
20 education facilities;
- 21 (3) For each school district, projections for the numbers  
22 and locations of schools required annually to



1 accommodate the numbers and types of students in the  
2 projected enrollment; and

3 (4) Recommendations for the construction, expansion,  
4 consolidation, or closure of underused schools based  
5 on the projections and assessment made pursuant to  
6 this section.

7 SECTION 4. School alignment selection criteria. (a) By  
8 December 31, 2008, the commission shall establish the criteria  
9 that will be used by the commission to select:

- 10 (1) Areas for new school construction;  
11 (2) Schools for expansion, other than charter schools;  
12 (3) Schools to be consolidated, other than charter  
13 schools; and  
14 (4) Underused schools to be closed, other than charter  
15 schools.

- 16 (b) The criteria shall require the consideration of:  
17 (1) The overuse or underuse of school facilities;  
18 (2) The academic and extracurricular achievement or  
19 successes of the student body, and whether that  
20 success was due at least in part to the existing size  
21 of the school;





- 1 (3) The best interests of the students and preserving  
2 their potential for success;
- 3 (4) The impact of the consolidation or closure of a school  
4 on the community in which it is located; and
- 5 (5) The costs or savings resulting from the continued  
6 operation, consolidation, or closure of a school,  
7 including the costs of deferred and future repair and  
8 maintenance.

9 (c) Before finalizing the school alignment selection  
10 criteria, the commission shall hold public hearings to obtain  
11 public response to the commission's proposed criteria. For each  
12 public hearing, the commission shall provide appropriate notice,  
13 as defined in section 1-28.5, Hawaii Revised Statutes, both  
14 statewide and county-wide in each county of the State. The  
15 commission shall make available to the public draft copies of  
16 its proposed criteria not less than two weeks prior to the start  
17 of the public hearings.

18 SECTION 5. Preliminary recommendations. (a) By  
19 February 28, 2009, based on the school facilities plan developed  
20 pursuant to section 3 and the final school alignment selection  
21 criteria adopted pursuant to section 4, the commission shall  
22 compile a preliminary list of recommended:



- 1 (1) Areas for new school construction;
- 2 (2) Schools for expansion, other than charter schools;
- 3 (3) Schools to be consolidated, other than charter
- 4 schools; and
- 5 (4) Underused schools to be closed, other than charter
- 6 schools.

7 (b) The list of recommendations shall include a summary of  
8 the selection process that resulted in the recommendation of  
9 each area or school on the list, including a justification for  
10 each recommendation.

11 (c) In selecting areas and schools for the list, the  
12 commission shall consider equally all schools within the State,  
13 without regard to whether the board of education had previously  
14 considered the school for consolidation or closure.

15 SECTION 6. Public hearings and final recommendations by  
16 the commission. (a) By August 31, 2009, the commission shall  
17 hold public hearings to obtain public response to the  
18 commission's preliminary recommendations. For each public  
19 hearing, the commission shall provide appropriate notice as  
20 defined in section 1-28.5, Hawaii Revised Statutes, both  
21 statewide and county-wide in each county of the State. The  
22 commission shall make available to the public draft copies of



1 the preliminary recommendations not less than two weeks prior to  
2 the start of the public hearings.

3 (b) Not less than twenty days prior to the convening of  
4 the regular session of 2010, the commission shall submit to the  
5 legislature a report of its findings and conclusions, including  
6 a final list of recommendations for:

7 (1) Areas for new school construction;

8 (2) Schools for expansion, other than charter schools;

9 (3) Schools to be consolidated, other than charter  
10 schools; and

11 (4) Underused schools to be closed, other than charter  
12 schools.

13 (c) The final list of recommendations shall be subject to  
14 legislative disapproval only in its entirety, by concurrent  
15 resolution.

16 (d) If the legislature does not disapprove the  
17 recommendations pursuant to subsection (c), then after the  
18 adjournment of the regular legislative session of 2010, sine  
19 die, the board of education shall begin implementing the  
20 recommendations of the commission for the 2011-2012 school year  
21 to:

22 (1) Construct new schools;



1 (2) Expand schools; and

2 (3) Consolidate or close underused schools.

3 SECTION 7. There is appropriated out of the general  
4 revenues of the State of Hawaii the sum of \$ or so  
5 much thereof as may be necessary for fiscal year 2008-2009 for  
6 expenses incurred by the facilities alignment commission in  
7 carrying out its duties.

8 The sum appropriated shall be expended by the department of  
9 education for the purposes of this Act.

10 SECTION 8. This Act shall take effect on July 1, 2008.



**Report Title:**

School Facilities; Facilities Alignment Commission

**Description:**

Creates the Facilities Alignment Commission to establish criteria for the selection of public schools to be constructed, expanded, consolidated, or closed; and recommend areas for new school construction, schools for expansion, consolidation, or closure. Requires the board of education to comply with these recommendations if the legislature does not disapprove of them in their entirety. (SD1)

