

Date: 02/08/2008

Committee: House Education

Department: Education

Person Testifying: Patricia Hamamoto, Superintendent of Education

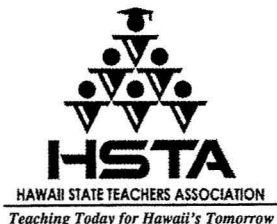
Title of Bill: HB 0602, HD1 RELATING TO EDUCATION.

Purpose of Bill: Requires that \$90,000,000 be deposited into the state treasury in each fiscal year to the credit of the State Educational Facilities Improvement Special Fund for public school capital improvement program needs, by repealing the sunset date for Act 304, Session Laws of Hawaii 2006.

Department's Position: The Department of Education strongly supports this measure. The State Educational Facilities Improvement Special Fund (SEFI) is used to plan, design, acquire lands, construct, and maintain public school facilities and other facilities under the jurisdiction of the Department of Education (DOE), except public libraries.

By statutorily establishing the minimum amount to be deposited into the SEFI at \$90 million, we can be assured that at least \$90 million of capital improvement program funds appropriated by the legislature will be allotted for the DOE to expend. If the sunset date of June 30, 2008 for Act 304/SLH 2006 is not repealed, appropriations exceeding \$45 million are not assured of being released to the DOE, directly affecting our ability to deliver to the schools the projects appropriated by the legislature.

Thank you for the opportunity to testify.



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**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
EDUCATION**

RE: HB 602, HD1 – RELATING TO EDUCATION

February 8, 2007

**ROGER TAKABAYASHI, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION**

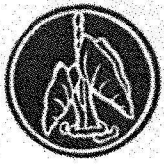
Chair Takumi and Members of the Committee:

The Hawaii State Teachers Association strongly supports HB 602, HD1.

This bill will repeal the sunset date for Act 304, Session Laws of Hawaii 2006, which placed and will continue to place \$90,000,000 of tax revenues into a State Educational Facilities Improvement Special Fund for the purpose of improving school facilities. The Association believes school and classroom environments are important factors that determine to a significant degree, the quality of the education we are providing to Hawaii's children. Research indicates a strong correlation exists between a clean, comfortable environment and success in learning.

We urge the committee to pass this bill.

Thank you for the opportunity to testify.



KALO

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For the House Committee on Education
February 8, 2008 hearing, 2:15 p.m., room 309

Testimony in support of HB 602 HD1 with proposed amendments

Chair Takumi and members of the committee:

Hawaii Revised Statutes 302A-101 defines "public school" as "all academic and noncollege type schools established and maintained by the department and charter schools chartered by the board of education, in accordance with law."

Although this definition needs to be corrected to recognize the Charter School Review Panel as the authorizer, the Legislature's intent appears to be to definitively establish that charter schools are indeed "public schools."

As such, charter schools should have access to the State Educational Facilities Improvement Special Fund for public school capital improvement program needs.

In that spirit, we would like the committee to consider the following amendments:

1) Adding a new section to read "Section 302A-101, Hawaii Revised Statutes, is amended by amending the definition of public schools to read as follows: "Public schools" means all academic and noncollege type schools established and maintained by the department and charter schools chartered by the ~~board of education,~~ charter school review panel in accordance with law."

2) Adding a new section to read "Act 304, Session Laws of Hawaii 2006, is amended by amending section 2 to read as follows: SECTION 2. Section 237-31, Hawaii Revised Statutes, is amended to read as follows:

"§237-31 Remittances. All remittances of taxes imposed by this chapter shall be made by money, bank draft, check, cashier's check, money order, or certificate of deposit to the office of the department of taxation to which the return was transmitted. The department shall issue its

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receipts therefor to the taxpayer and shall pay the moneys into the state treasury as a state realization, to be kept and accounted for as provided by law; provided that:

(1) The sum from all general excise tax revenues realized by the State that represents the difference between \$90,000,000 and the proceeds from the sale of any general obligation bonds authorized for that fiscal year for the purposes of the state educational facilities improvement special fund shall be deposited in the state treasury in each fiscal year to the credit of the state educational facilities improvement special fund for public school capital improvement program needs, including charter schools, as defined in section 302B-1 Hawaii Revised Statutes; and

(2) A sum, not to exceed \$5,000,000, from all general excise tax revenues realized by the State shall be deposited in the state treasury in each fiscal year to the credit of the compound interest bond reserve fund."

Sincerely,

Taffi Wise
Executive Director

L E G I S L A T I V E

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TAX FOUNDATION OF HAWAII

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SUBJECT: GENERAL EXCISE, Make permanent earmarking for school facilities special fund

BILL NUMBER: HB 602, HD-1

INTRODUCED BY: House Committee on Education

BRIEF SUMMARY: Amends Act 304, SLH 2006, to repeal the June 30, 2008 sunset date which earmarks \$90 million in general excise tax revenues and the proceeds from the sale of general obligation bonds be deposited to the state educational facilities improvement special fund.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: The legislature by Act 304, SLH 2006, increased the amount of general excise tax revenues or general obligation bond proceeds earmarked for the state educational facilities improvement special fund from \$45 million to \$90 million for public school capital improvement needs. Act 304 also provided that this increased earmarking shall be repealed on June 30, 2008, which this measure proposes to repeal.

The earmarking provisions of this law were established more than a decade ago when the state general fund was flush with cash surpluses. While the rationale was to secure dedicated funding for educational facilities, the real intent of this provision was to hide those surplus funds from public scrutiny, creating the illusion that there was no surplus. However, when the economy turned sour as the Japanese bubble burst, lawmakers took back the general excise tax revenues and replaced the funding source with the proceeds of bond sales. The level of earmarking at the time was \$90 million. However, when pressed for an estimate of how much the department could reasonably undertake in the construction of facilities, it was discovered that the department could only handle about \$45 million in projects each year. The level of earmarking was thus reduced to \$45 million in 1999 and increased to \$90 million in 2006.

Rather than perpetuating this practice of earmarking tax revenues or bond proceeds, lawmakers should repeal the special fund and the earmarking for this purpose. This would force the board of education to explain why they are not capable of delivering badly needed school facilities on a timely basis.

Even the 1989 Tax Review Commission noted that use of this type of special fund financing is a "departure from Hawaii's sound fiscal policies and should be avoided." It also noted that special funds are appropriate where the revenues to the funds maintain some direct connection between a public service and the beneficiary of that service. The Commission found that special funds which merely set aside general funds cannot be justified as such actions restrict budget flexibility, create inefficiencies, and lessen accountability. It recommended that such programs can be given priority under the normal budget process without having to resort to this type of financing.

Seconding the Commission's harsh criticism was the State Auditor's report issued in February of 1991

HB 602, HD-1 - Continued

that recognized that the "tax is levied on the general public rather than specific beneficiaries of the program," and thus the fund did not reflect a "direct link between user benefits and user charges." The Auditor recommended that the fund be repealed and that educational facilities should be funded through the normal capital improvements appropriations process. Rather than perpetuating the improper use of special funds, the legislature should take the advice of the Auditor and repeal the state educational facilities improvement special fund. Now more than ever, lawmakers should repeal the automatic funding mechanism and make administrators justify their expenditures for the construction of educational facilities or explain their inability to do so.

This would force the board and department of education to deliver these repairs on a timely basis or explain why they could not do the necessary repairs and maintenance. With the automatic earmarking, there is no reason to return each year to the legislature and be held accountable for the lack of action. This is called accountability.

Digested 2/07/08