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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 twenty-  
4 five years, the statewide population has increasingly shifted  
5 from the urban core to the suburbs, especially on Oahu, where  
6 the population center has steadily moved to the western side of  
7 the island. Meanwhile, some of the areas in the state with the  
8 fastest-growing populations are Kihei, Maui, and West Hawaii.  
9 These demographic shifts have overburdened public school  
10 facilities in growing areas and left some public school  
11 facilities in other areas underused. Thus, the legislature  
12 believes there is a need to revitalize school facilities  
13 statewide, including building or expanding schools in certain  
14 areas and consolidating or closing 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 public schools in Hawaii through an  
17 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;

5 and

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

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

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

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

21 (3) Explore funding mechanism alternatives to ensure that  
22 funds derived from the consolidation or closure of

1 schools benefit the affected school or schools or the  
2 department of education, as appropriate;

3 (4) Develop procedures or guidelines for executing  
4 memoranda of agreement or memoranda of understanding  
5 with the counties, other departments, or entities  
6 regarding property on which affected schools are  
7 located with regard to the disposition of those  
8 properties; and

9 (5) Develop procedures or guidelines, with the assistance  
10 of the department of the attorney general, regarding  
11 boilerplate language, terms, and conditions associated  
12 with the sale or lease of property on which affected  
13 schools are located.

14 (b) The commission shall be composed of nine members  
15 appointed by the governor; provided that:

16 (1) Three members shall be appointed from a list of  
17 nominees submitted by the president of the senate, of  
18 which two members shall be persons with professional  
19 experience in education, including former or current  
20 teachers or school administrators; and

21 (2) Three members shall be appointed from a list of  
22 nominees submitted by the speaker of the house of

1           representatives, of which two members shall be persons  
2           with professional experience in education, including  
3           former or current teachers or school administrators.

4           (c) The chairperson of the commission shall be selected by  
5 the members of the commission.

6           (d) A majority of the commission's membership shall have  
7 professional experience in education, including experience as a  
8 teacher or school administrator.

9           (e) At least one member shall be a representative of the  
10 department of education.

11           (f) With the sole exception of those who are education  
12 professionals, members of the commission shall not be employees  
13 of the State.

14           (g) Any substantive action taken by the commission  
15 pursuant to sections 4 through 6 of this Act shall be approved  
16 by a two-thirds vote of its members. For all other actions of  
17 the commission, five members shall constitute a quorum to do  
18 business, of which a majority vote shall suffice.

19           (h) The commission shall be exempt from chapter 91, Hawaii  
20 Revised Statutes, but shall be subject to chapters 92 and 92F,  
21 Hawaii Revised Statutes.

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

4 (j) The department of education shall provide  
5 administrative support to the commission. The commission shall  
6 have access to all records in the department of education and  
7 department of accounting and general services pertinent to its  
8 duties and may request research and analysis assistance from the  
9 department of education. Pursuant to chapter 92F, Hawaii  
10 Revised Statutes, the commission shall maintain the  
11 confidentiality of all confidential information.

12 (k) The commission shall terminate upon adjournment of the  
13 regular legislative session of 2011, sine die.

14 SECTION 3. Procedures for making recommendations for  
15 school alignment; school facilities plan. (a) The department  
16 of education shall submit to the commission by December 31,  
17 2009, a school facilities plan. The school facilities plan  
18 shall be based on the department's assessment of the projected  
19 student enrollment for public schools in critical areas in the  
20 state, other than charter schools, including high-growth or  
21 steadily declining population areas. In conducting the  
22 assessment, the department shall:

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

1 SECTION 4. School alignment selection criteria. (a) By  
2 December 31, 2009, the commission shall establish the criteria  
3 that will be used by the commission to select:

4 (1) Areas for new school construction;

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

6 (3) Schools to be consolidated, other than charter  
7 schools; and

8 (4) Schools to be closed, other than charter schools.

9 (b) The criteria shall require the consideration of:

10 (1) The overuse or underuse of school facilities;

11 (2) The academic and extracurricular achievement or  
12 successes of the student body, and whether that  
13 success was due at least in part to the existing size  
14 of the school;

15 (3) The best interests of the students and preserving  
16 their potential for success;

17 (4) The impact of the consolidation or closure of a school  
18 on the community in which it is located; and

19 (5) The costs or savings resulting from the continued  
20 operation, consolidation, or closure of a school,  
21 including the costs of deferred and future repair and  
22 maintenance.

1 (c) Before finalizing the school alignment selection  
2 criteria, the commission shall hold public hearings to obtain  
3 public response to the commission's proposed criteria. For each  
4 public hearing, the commission shall provide notice, in  
5 accordance with section 1-28.5, Hawaii Revised Statutes, in  
6 statewide and county-wide publications in each county of the  
7 state. The commission shall make available to the public draft  
8 copies of its proposed criteria not less than two weeks prior to  
9 the start of the public hearings.

10 SECTION 5. Preliminary recommendations. (a) By  
11 February 28, 2010, based on the school facilities plan developed  
12 pursuant to section 3 and the final school alignment selection  
13 criteria adopted pursuant to section 4, the commission shall  
14 compile a preliminary list of recommended:

- 15 (1) Areas for new school construction;
- 16 (2) Schools for expansion, other than charter schools;
- 17 (3) Schools to be consolidated, other than charter  
18 schools; and
- 19 (4) Schools to be closed, other than charter schools.

20 (b) The list of recommendations shall include a summary of  
21 the selection process that resulted in the recommendation of

1 each area or school on the list, including a justification for  
2 each recommendation.

3 (c) In selecting areas and schools for the list, the  
4 commission shall consider equally all schools within the state,  
5 without regard to whether the board of education had previously  
6 considered the school for consolidation or closure.

7 SECTION 6. Public hearings and final recommendations by  
8 the commission. (a) By August 31, 2010, the commission shall  
9 hold public hearings to obtain public response to the  
10 commission's preliminary recommendations. For each public  
11 hearing, the commission shall provide notice in accordance with  
12 section 1-28.5, Hawaii Revised Statutes, in statewide and  
13 county-wide publications in each county of the state. The  
14 commission shall make available to the public draft copies of  
15 the preliminary recommendations not less than two weeks prior to  
16 the start of the public hearings.

17 (b) Not less than twenty days prior to the convening of  
18 the regular session of 2011, the commission shall submit to the  
19 legislature a report of its findings and conclusions, including  
20 a final list of recommendations for:

21 (1) Areas for new school construction;

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

1 (3) Schools to be consolidated, other than charter  
2 schools; and

3 (4) Schools to be closed, other than charter schools.

4 (c) The final list of recommendations shall be subject to  
5 legislative disapproval only in its entirety, by concurrent  
6 resolution.

7 (d) If the legislature does not disapprove the  
8 recommendations pursuant to subsection (c), then after the  
9 adjournment of the regular legislative session of 2011, sine  
10 die, the board of education shall implement the recommendations  
11 of the commission for the 2012-2013 school year, considering any  
12 procedures and guidelines developed by the commission.

13 SECTION 7. There is appropriated out of the general  
14 revenues of the State of Hawaii the sum of \$ or so  
15 much thereof as may be necessary for fiscal year 2009-2010 for  
16 expenses incurred by the facilities alignment commission in  
17 carrying out its duties.

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

20 SECTION 8. This Act shall take effect on July 1, 2040.

**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 a list of areas for new school construction, and of 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. Effective 7/1/40. (SD1)