

JAN 22 2010

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# A BILL FOR AN ACT

RELATING TO THE COUNTIES.

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

1           SECTION 1. Section 46-80.1, Hawaii Revised Statutes, is  
2 amended by amending its title and subsections (a) to (c) to read  
3 as follows:  
4           " [†]§46-80.1 [†] **Community facilities and educational**  
5 **services district.** (a) Any county having a charter may enact  
6 an ordinance, and may amend the same from time to time,  
7 providing for the creation of community facilities and  
8 educational services districts to finance special improvements  
9 [in the county.], or educational services through the provision  
10 of supplemental revenues to the department of education that may  
11 be used for operation and maintenance services, including  
12 teacher salaries, for schools in the county that directly  
13 benefit and are located within or adjacent to the boundaries of  
14 an educational services district. Educational services shall  
15 mean education costs of public elementary, intermediate, and  
16 high schools. The special improvements or educational services  
17 may be provided and financed under the ordinance. The county



1 shall have the power to levy and assess a special tax on  
2 property located in a district to finance the special  
3 improvements or services and to pay the debt service on any  
4 bonds issued to finance the special improvements. The county  
5 may issue and sell bonds to provide funds for the special  
6 improvements. Bonds issued to provide funds for the special  
7 improvements may be either: bonds secured only by the  
8 properties included in the district and/or the special taxes  
9 thereon, or bonds payable from general taxes and/or secured by  
10 the general taxing power of the county. If the bonds are  
11 secured only by the properties included in the district and/or  
12 the special taxes thereon, the bonds shall be issued according  
13 and subject to the provisions of the ordinance. If the bonds  
14 are payable from general taxes or secured by the general taxing  
15 power, the bonds shall be issued according and subject to  
16 chapter 47. Educational services shall be financed and payable  
17 only by a levy of special taxes on properties included in the  
18 district. The county council shall appoint a five member  
19 citizens oversight committee for each educational services  
20 district successfully formed from property owners within each  
21 educational service district to certify to the county and the  
22 department of education that the special taxes supplement, and



1 do not replace, existing revenues available for the those  
2 schools located within or adjacent to the boundaries of an  
3 educational services district. The citizens oversight committee  
4 shall also make annual recommendations specific to each school  
5 in the educational services district to the county and the  
6 department of education.

7 (b) There is no requirement that the special tax imposed  
8 by ordinance pursuant to this section be fixed in an amount or  
9 apportioned on the basis of special benefit to be conveyed on  
10 property by the special improvement~~[r]~~ or educational services,  
11 or that the special improvement or educational services convey a  
12 special benefit on any property in the district. It shall be  
13 sufficient that the governing body of the county determines that  
14 the property to be subject to the special tax is improved or  
15 benefited by the special improvement or educational services in  
16 a general manner or in any other manner. The special  
17 improvement or educational services may also benefit property  
18 outside the district. The special taxes assessed pursuant to  
19 this section shall be a lien upon the property assessed. The  
20 lien shall have priority over all other liens except the lien of  
21 general real property taxes and the lien of assessments levied  
22 under section 46-80. The lien of special taxes assessed



1 pursuant to this section shall be on a parity with the lien of  
2 general real property taxes and the lien of assessments levied  
3 under section 46-80, except to the extent the law or assessment  
4 ordinance provides that the lien of assessments levied under  
5 section 46-80 shall be subordinate to the lien of general real  
6 property taxes.

7 (c) The ordinance shall describe the types of special  
8 improvements or educational services that may be undertaken and  
9 financed. In addition, the ordinance shall include, but not be  
10 limited to, procedures for:

11 (1) Creating community facilities and educational services  
12 districts (and zones therein), including specific time  
13 spans for the existence of each district;

14 (2) Apportioning special taxes on real properties within a  
15 community facilities and educational services  
16 district;

17 (3) Providing notice to and opportunity to be heard by  
18 owners of property proposed to be subject to the  
19 special tax (the affected owners), subject to waiver  
20 by one hundred per cent of the affected owners,  
21 including termination of proceedings if the affected  
22 owners of more than fifty-five per cent of the



1 property, or if more than fifty-five per cent of the  
2 affected owners of the property, in the community  
3 facilities and educational services district proposed  
4 to be subject to the special tax protest in writing at  
5 the hearing. The ordinance shall also provide that if  
6 a lease requires the lessee to pay the proposed  
7 special tax, the ordinance shall state that the  
8 affected owner may waive this requirement in writing  
9 and that the affected owner refrain from imposing upon  
10 any successor lessee the obligation to pay the special  
11 tax. The ordinance shall also provide that if the  
12 affected owner fails to waive the requirement that the  
13 lessee pay the proposed tax, then all the rights for  
14 notice, hearing, and protest contained in this  
15 paragraph shall inure to the benefit of the original  
16 lessee or any subsequent lessee;

- 17 (4) Provide notice to buyers or lessees of the property  
18 who would be required to pay the special tax;
- 19 (5) Fixing, levying, collecting, and enforcing the special  
20 taxes against the properties affected thereby  
21 (including penalties for delinquent payment and sales  
22 for default);



1 (6) Making changes in the community facilities and  
2 educational services district, in the special taxes,  
3 or in the special improvements or educational services  
4 to be financed or provided;

5 (7) The acquisition or construction of the special  
6 improvements[+] or the provision of educational  
7 services;

8 (8) The issuance of bonds to pay all or part of the cost  
9 of the special improvements (including costs of  
10 issuance, reserves, capitalized interest, credit  
11 enhancement, and any other related expenses);

12 (9) Refunding bonds previously issued;

13 (10) The establishment and handling of a separate special  
14 fund or funds to pay or secure such bonds, or to pay  
15 for acquisition or construction of special  
16 improvements or the provision of educational services  
17 or any other related expenses; and

18 (11) Other matters as the council shall determine to be  
19 necessary or proper.

20 The amount of special taxes may include amounts determined  
21 by the council to be necessary or reasonable to cover  
22 administration and collection of the assessments, administration



1 of the bonds or of the program authorized by this section,  
2 replenishment of reserves, arbitrage rebate, and a reasonable  
3 financing fee."

4 SECTION 2. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: Norman Sakamoto



**Report Title:**

Counties; Community Facilities Districts; Educational Services

**Description:**

Expands the use of community facilities district special taxes to include educational services, including teacher salaries.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

