
A BILL FOR AN ACT

RELATING TO PUBLIC SCHOOL LANDS.

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

1 SECTION 1. The legislature finds that one of the major
2 educational dilemmas of our time is rooted in an existing system
3 that traps information-age students in agricultural-age schools.
4 While the flow of information and ideas is increasingly fluid,
5 students are confined to the physical structures and mindsets of
6 an earlier time and place. Building, repairing, and
7 retrofitting public schools to meet the challenges of the
8 twenty-first century and beyond will not be easy, and the costs
9 will be considerable. However, quality school infrastructure
10 facilitates an environment that will prepare children to achieve
11 and succeed in a highly competitive economy.

12 The infrastructure of the twenty-first century school must
13 be energy efficient and wired with the latest technology.
14 Classroom size must be flexible because the program, not the
15 space, should determine the number of students per class. The
16 school campus must be designed from its inception with student
17 achievement in mind to maximize available land and student
18 safety, and to offer the community multiple uses of existing



1 structures. Most of Hawaii's school campuses fall short in
2 these areas.

3 The considerable amount of underused public school lands on
4 the State's two hundred fifty-seven school campuses is an
5 untapped resource that lies within reach and would facilitate
6 infrastructure that could make classrooms and campuses suitable
7 for twenty-first century learning. By way of illustration, a
8 preliminary review by a real estate expert indicates that ten
9 parcels that have unused lands are valued at \$120,000,000 under
10 existing surrounding uses. These lands could be developed
11 solely for the benefit of Hawaii's public school children. The
12 beneficiaries would be the children of Hawaii.

13 The purpose of this Act is to optimize uses of public
14 school lands to generate opportunities to improve public school
15 facilities and infrastructure to meet the challenges of the
16 twenty-first century and overall, to improve the quality of
17 education in Hawaii. In particular, this Act establishes a
18 three-year pilot project to generate revenue from uses such as
19 workforce housing to build and retrofit twenty-first century
20 schools. The pilot project will lay important groundwork for a
21 statewide approach and plan to optimizing public school lands
22 and modernizing public school facilities. This Act also



1 establishes a school facilities advisory board to provide
2 guidance to the department of education on ways to optimize the
3 use of public school lands, and creates the school facilities
4 special fund to deposit all proceeds generated from the use or
5 lease of public school lands. Moneys in the school facilities
6 special fund will be used to build or upgrade twenty-first
7 century school facilities.

8 SECTION 2. Chapter 235, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§235- Public school construction tax credit. (a)
12 There shall be allowed to each taxpayer subject to the taxes
13 imposed by this chapter and who enters into a lease with the
14 board of education or department of education through a
15 competitive bid process under section 302A-A for the
16 construction of workplace rental housing units and any new
17 public schools construction in accordance with the construction,
18 design plans, and specifications of the department of education,
19 an income tax credit which shall be deductible from the
20 taxpayer's net income tax liability, if any, imposed by this
21 chapter for the taxable year in which the credit is properly
22 claimed.



1 (b) The amount of the credit shall not exceed ten per cent
2 of the construction costs incurred during the taxable year in
3 which the taxpayer constructed a public school free of cost to
4 the department of education and workplace rental housing units
5 under terms satisfactory to the department of education and
6 board of education. The request for proposal shall specifically
7 identify the aggregate amount of allocation of tax credit
8 available to the lessee. If the construction occurs in more
9 than one taxable year, the taxpayer may select the year in which
10 the credit is claimed.

11 (c) In the case of a partnership, S corporation, estate,
12 trust, or any developer of a commercial building, the tax credit
13 allowable is for construction costs incurred by the entity for
14 the taxable year. The cost upon which the tax credit is
15 computed shall be determined at the entity level.

16 (d) If the tax credit under this section exceeds the
17 taxpayer's income tax liability, the excess of credit over
18 liability may not be carried forward until exhausted.

19 (e) The total aggregate tax credits to be granted under
20 this section shall not exceed \$5,000,000 in year one,
21 \$10,000,000 in year two, and \$10,000,000 in year three. The



1 total maximum amount of the aggregate tax credits allowed under
2 this section shall not exceed \$25,000,000.

3 (f) As used in this section, "construction costs" means
4 the cost to plan, design, install, construct, and purchase
5 furniture, fixtures, and equipment for the public school and the
6 workforce rental housing units.

7 SECTION 3. Chapter 302A, Hawaii Revised Statutes, is
8 amended by adding three new sections to be appropriately
9 designated and to read as follows:

10 **"§302A-A Lease of lands under the control of the board.**

11 (a) Notwithstanding sections 302A-1151 and 171-13, or any other
12 law to the contrary, the department, with the approval of the
13 board, may lease public school land on terms it deems
14 appropriate; provided that:

15 (1) The department may lease public school properties for
16 not more than ten existing schools under a lease for a
17 term of not more than fifty-five years to a lessee who
18 shall be required to construct workforce rental
19 housing units at affordable rental rates in accordance
20 with specific request for proposal guidelines; and

21 (2) The lease stipulates that the lessee may retain the
22 rental proceeds; provided that:



- 1 (A) The lessee shall be obligated to maintain and
2 operate the workforce rental housing units for
3 the length of the lease;
- 4 (B) The lessee shall be subject to the county for all
5 property taxes on the value of the non-school
6 improvements;
- 7 (C) A leasehold premium shall be paid for the right
8 to use the land based upon a competitive bid
9 process pursuant to chapter 103D;
- 10 (D) Upon the expiration of the lease terms, the
11 workforce rental housing units shall revert to
12 the department; and
- 13 (E) All revenues and proceeds derived from this
14 section shall be deposited in the school
15 facilities special fund established under section
16 302A-B.

17 (b) As additional compensation, the board may require a
18 lessee to construct a new public school or substantially remodel
19 existing schools at no cost to the board, department, and state;
20 provided that the design, construction plans, and specification
21 for such public school shall be specifically provided by the
22 department at the direction of the board, and be specifically

1 detailed in the request for proposal bid process in accordance
2 with chapter 103D.

3 (c) The lessee shall be selected by the department with a
4 recommendation to the board after a competitive bid process is
5 conducted pursuant to chapter 103D.

6 (d) Uses permitted under a lease shall include:

7 (1) Workplace rental housing units and uses ancillary to
8 the rental housing community that are in accordance
9 with applicable zoning ordinances; and

10 (2) Public schools.

11 (e) A lessee may be eligible for an investment tax credit
12 under section 235- , as identified in the request for
13 proposal, not to exceed ten per cent of the total construction
14 cost for the public school and workforce rental housing units.

15 (f) All proceeds generated through leases entered into
16 under a competitive bid process administered by the board for
17 workplace rental units pursuant to this section shall be used
18 exclusively for the new construction and upgrade of twenty-first
19 century public school facilities. All leased land revenues and
20 proceeds generated from public school lands pursuant to this
21 section shall be deposited into the school facilities special
22 fund established under section 302A-B.



1 **§302A-B School facilities special fund.** (a) There is
2 established a school facilities special fund into which shall be
3 deposited all proceeds from the leases, permits, interest from
4 sale contracts, interest income generated from public school
5 lands, and other revenue generated from the non-permanent
6 disposition of public school lands under section 302A-A.

7 (b) The school facilities special fund shall be
8 administered by the department. Except as otherwise authorized
9 by statute, all moneys in the school facilities special fund
10 shall be used exclusively for the new construction and upgrade
11 of twenty-first century school facilities.

12 **§302A-C School facilities advisory board.** There is
13 established within the department a school facilities advisory
14 board to be composed of seven real estate, land use development,
15 and education professionals. Members of the advisory board
16 shall be appointed by the board and shall provide the department
17 with advice, expertise, and guidance on the construction,
18 management, and redevelopment of public school lands and
19 facilities. Members of the advisory board shall serve without
20 compensation but shall be reimbursed for travel expenses
21 incurred in the performance of their duties. The advisory board



1 may advise the department in the following activities, to

2 include but not be limited to:

3 (1) Identifying excess and underused public school lands
4 and public school land sites with the potential for
5 redevelopment;

6 (2) Developing a strategic plan and implementation
7 schedule for the redevelopment of public school lands;

8 (3) Consistent with the department's strategic plans,
9 preparing development plans for school sites that have
10 the potential to generate revenues along with
11 improving school facilities at the respective sites;
12 and

13 (4) Recommending the issuance of special purpose revenue
14 bonds for the purpose of loaning or otherwise applying
15 bond proceeds in accordance with redevelopment
16 projects approved by the department."

17 SECTION 4. (a) Within twelve months of the effective date
18 of this Act, in collaboration with the school facilities
19 advisory board, the department of education shall:

20 (1) Research, evaluate, and where appropriate implement
21 measures to further develop a systematic process,
22 mechanism, and policies to optimize the use of public



1 school lands to build, upgrade, and renovate all
2 schools to enable students to compete in the twenty-
3 first century;

4 (2) Recommend legislation relating to the statutory and
5 procedural changes required to resolve pending land
6 tenure issues relating to the use, sale, or lease of
7 public school lands, which may include the creation of
8 a public schools land trust; and

9 (3) Develop a comprehensive master plan and implementation
10 schedule to optimize public school lands for the
11 development of twenty-first century schools.

12 (b) The department of education, in collaboration with the
13 school facilities advisory board shall submit a report to the
14 legislature, including a summary of the department's activities,
15 results, and recommendations to optimize the use of public
16 school lands as a means to build or renovate twenty-first
17 century schools, no later than twenty days prior to the
18 convening of the 2013 regular session.

19 SECTION 5. In codifying the new sections added by section
20 3 of this Act, the revisor of statutes shall substitute
21 appropriate section numbers for the letters used in designating
22 the new sections in this Act.



1 SECTION 6. New statutory material is underscored.

2 SECTION 7. This Act shall take effect on July 1, 2011;
3 provided that section 2 and section 302A-A in section 3 shall be
4 repealed on June 30, 2014; provided that the tax credit
5 established in section 2 of this Act shall apply to taxable
6 years beginning after December 31, 2010.



Report Title:

Education; Public School Lands; Leases; Tax Credit

Description:

Permits the Department of Education, with the approval of the Board of Education, to lease certain public school lands for the development of affordable workforce housing rental units under specified conditions. Establishes a public school construction tax credit not exceeding ten per cent of construction costs incurred under such leases. Effective July 1, 2011. (SB1385 HD1)

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

