

JAN 21 2011

A BILL FOR AN ACT

RELATING TO SCHOOLS.

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

1 SECTION 1. The legislature finds that the certificate of
2 participation is a method of financing capital improvement
3 projects in which an investor buys a share of the lease revenues
4 generated from an agreement made between the government and the
5 developer, rather than the bond being issued by the government
6 and secured by those lease revenues. Specifically, under this
7 method of financing, the department of budget and finance enters
8 into a lease agreement with a developer to front the financing,
9 thereby enabling a capital improvement project to be designed
10 and built prior to the expending state agency's obtaining the
11 necessary capital improvement project appropriation from the
12 legislature. Certificates of participation have been used to
13 finance the building of the state office building at Kapolei and
14 to finance the purchase of the capitol district office building
15 (Hemmeter Building).

16 The primary advantages of certificate of participation
17 financing are speed and lower costs. Projects will be completed
18 sooner than under the traditional method of financing, through



1 bond appropriation and the ensuing allotment process over an
2 incremental period of years. Moreover, lower costs will ensue
3 because the design and construction phases of a project can
4 actually be packaged together, rather than be artificially
5 separated by fiscal years. The primary disadvantage is its
6 complexity, since it requires coordination between the
7 departments of budget and finance, accounting and general
8 services, and the attorney general, the governor, and the
9 legislature. However, given the current dire state of Hawaii's
10 economy, the advantage of lower costs easily outweighs the
11 disadvantage of administrative complexity.

12 The legislature further finds that the department of
13 education is currently pursuing the use of certificates of
14 participation as a method to finance new school construction
15 that will be built on land owned by a developer. There are
16 three new elementary schools in the board of education's capital
17 improvement project budget designated as top priority. They are
18 Royal Kunia elementary school on the slope mauka of Waipahu on
19 Oahu; Maui Lani elementary school in Kahului, Maui; and Ocean
20 Pointe elementary school in Ewa Beach, Oahu. All are in
21 locations where there is large population growth and the
22 enrollments in adjacent schools exceed capacity. Each of these



1 potential school sites is owned by developers who are interested
2 in building schools, not only because the site meets the need
3 for capacity but also because a new school is an attractive
4 marketing tool. The developers have expressed an interest in
5 partnering with the State to build schools.

6 The purpose of this Act is to:

- 7 (1) Clarify that the department of education is authorized
8 to enter into financing agreements or issue
9 certificates of participation for the acquisition and
10 development of public school facilities and any lands
11 for these facilities;
- 12 (2) Direct the department of education to enter into a
13 financing agreement with a private developer for the
14 planning, design, and construction of the Royal Kunia
15 elementary school II, using certificates of
16 participation; and
- 17 (3) Appropriate state educational facilities improvement
18 special funds for the purposes of this Act.

19 SECTION 2. Section 302A-1506, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "§302A-1506 Public school facilities. The department may
22 enter into [such] contracts, leases, lease-purchase agreements,



1 financing agreements or certificates of participation pursuant
2 to chapter 37D and section 36-32, or other transactions as may
3 be necessary for the acquisition of public school facilities,
4 including any lands for these facilities, on such terms as it
5 may deem appropriate with the concurrence of the director of
6 finance."

7 SECTION 3. Pursuant to section 36-32, Hawaii Revised
8 Statutes, the department of education shall enter into a
9 financing agreement with a private developer for the planning,
10 design, and construction of Royal Kunia elementary school II at
11 Kunia, Oahu, Hawaii, using certificates of participation meeting
12 the requirements of chapter 37D, Hawaii Revised Statutes.

13 SECTION 4. There is appropriated out of the state
14 educational facilities improvement special fund of the State of
15 Hawaii the sum of \$ or so much thereof as may be
16 necessary for fiscal year 2011-2012 for the planning, design,
17 and construction of Royal Kunia elementary school II at Kunia,
18 Oahu, Hawaii; provided that the remaining costs necessary to
19 complete the project shall also be eligible for funding through
20 a financing agreement or issuance of certificates of
21 participation.



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

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

5 SECTION 6. This Act shall take effect on July 1, 2011.

6

INTRODUCED BY:

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Report Title:

Public School Facilities; Royal Kunia Elementary; Certificate of Participation; Appropriation

Description:

Clarifies that DOE may enter into financing agreements or issue certificates of participation (COP) to acquire public school facilities. Directs DOE to execute a financing agreement for the planning, design, and construction of Royal Kunia Elementary School II using COP. Appropriates funds.

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