

JAN 26 2011

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 kids in agricultural-age schools.
4 While the flow of information and ideas is increasingly fluid,
5 we are locking students into physical structures and mindsets of
6 an earlier time and place. Building, repairing, and
7 retrofitting our 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, a quality school infrastructure
10 is essential if we are to create an environment that will
11 maximize student achievement and adequately prepare our children
12 to succeed in today's highly competitive economy.

13 The infrastructure of the twenty-first century school must
14 be energy efficient and wired with the latest in broadband
15 technology. Connectivity via laptops and handheld devices
16 between faculty and students is fundamental. Classroom size
17 must be flexible because the program, not the space, should
18 determine the number of students per class. The school campus



1 must be designed from its inception not to waste land, to
2 provide for maximum student safety, and to offer the community
3 multiple use of existing structures. For teachers and
4 administrative staff, the workplace must be family friendly.
5 Most of our current school campuses fall short in these areas.

6 The considerable amount of underutilized public school
7 lands on the State's two hundred fifty-seven school campuses is
8 an untapped resource that lies easily within our reach that
9 would enable us to build this infrastructure and make our
10 classrooms fit for twenty-first century learning. By way of
11 illustration, a preliminary review by a real estate expert
12 indicates that the redevelopment of ten parcels have the
13 potential to generate \$120,000,000. The lands would be
14 developed solely for the benefit of Hawaii's public school
15 children. The beneficiaries would be the children of Hawaii and
16 especially the Native Hawaiian population, which currently
17 comprises twenty-eight per cent of the youth in the State's
18 public school system. According to the office of Hawaiian
19 affairs, enrollment of Native Hawaiians in some rural public
20 schools exceeds fifty per cent. We cannot afford to neglect the
21 education of these children because they are the future of this
22 State.



1 The purpose of this Act is to provide for the maximum use
2 of public school lands in order to generate income to improve
3 public school facilities and infrastructure to meet the
4 challenges of the twenty-first century.

5 SECTION 2. The Hawaii Revised Statutes is amended by
6 adding a new chapter to be appropriately designated and to read
7 as follows:

8 "CHAPTER

9 PUBLIC SCHOOL LANDS TRUST

10 § -1 Definitions. As used in this chapter:

11 "Commission" means the public school lands trust
12 commission.

13 "Public school trust lands" means all lands under the
14 management of the state department of education as of July 1,
15 2011, for kindergarten, elementary, and secondary schools, and
16 other facilities; provided that it shall not include lands owned
17 by the department of Hawaiian home lands, the United States of
18 America, or any private person or entity. Any other lands that,
19 after July 1, 2011, are used, or dedicated for use by
20 kindergarten, elementary, and secondary public schools shall be
21 public school trust lands.



1 "Redevelopment" includes the sale or lease of public school
2 trust lands that are not required for the use of public schools,
3 the relocation and redevelopment of public schools, and the
4 redevelopment of public school trust lands in accordance with
5 the redevelopment process set forth in this chapter.

6 § -2 **Public school lands trust.** There is created a
7 public school lands trust, the corpus of which shall include the
8 public school trust lands, and the purpose of which is to
9 maximize the use of public school lands and generate income to
10 construct, repair, and retrofit public schools to meet the
11 challenges of the twenty-first century and beyond.

12 § -3 **Public school trust lands.** (a) Notwithstanding
13 section 171-95 or any other law to the contrary, all executive
14 orders transferring the management of public school trust lands
15 to the department of education shall be cancelled and title to
16 the lands, including any existing encumbrances on title, shall
17 be transferred to the public school lands trust.

18 (b) Where title to public school trust lands is held by
19 the city and county of Honolulu, the county of Maui, the county
20 of Hawaii, or the county of Kauai, the title, by operation of
21 law, shall be transferred to the public school lands trust.



1 Deeds documenting the transfers shall be executed no later than
2 July 1, 2013.

3 § -4 Public school lands trust commission. (a) There
4 is established a public school lands trust commission that shall
5 manage, administer, and exercise control over the public school
6 lands trust. The commission shall be placed within the
7 department of land and natural resources for administrative
8 purposes only.

9 (b) The commission shall consist of eight public voting
10 members appointed by the governor as provided in section 26-34,
11 and one ex officio voting member; provided that:

12 (1) Four of the public members shall represent each of the
13 four counties;

14 (2) At least four of the public members shall have
15 experience in the area of real estate;

16 (3) At least one public member shall have appraisal
17 qualifications as a member of the Appraisal Institute
18 or equivalent organization;

19 (4) At least one public member shall be a retired teacher;

20 (5) At least one public member shall be a retired
21 principal or school administrator; and



1 (6) The chairperson of the board of land and natural
2 resources shall serve as an ex officio voting member.

3 (c) The governor shall designate the chairperson of the
4 commission from among the members; provided that the chairperson
5 of the board of land and natural resources shall not serve as
6 the chairperson of the commission.

7 (d) The members of the commission shall serve without
8 compensation but shall be reimbursed for expenses, including
9 travel expenses, necessary for the performance of their duties.

10 (e) The commission shall appoint an executive director,
11 who shall not be subject to chapter 76, whose duties shall be to
12 administer and implement, under the direction of the commission,
13 this chapter, and all rules and other directives adopted by the
14 commission.

15 § -5 Powers. The management, administration, and
16 control of the public school lands trust shall rest with the
17 commission. In addition to its other powers, the commission
18 shall have the power to:

19 (1) Adopt rules pursuant to chapter 91;

20 (2) Enter into contracts;

21 (3) Sue and be sued;



- 1 (4) Appoint officers, agents, and employees without regard
- 2 to chapter 76;
- 3 (5) Acquire public school trust lands through operation of
- 4 law, purchase, gift, devise, or eminent domain;
- 5 (6) Hold title to all public school trust lands; and
- 6 (7) Sell, assign, exchange, transfer, convey, lease,
- 7 sublease, or otherwise dispose of or encumber public
- 8 school trust lands; provided that public school trust
- 9 lands may be sold only for single family residential
- 10 use and only if the use is deemed to be the highest
- 11 and best use for the lands; provided further that the
- 12 sale of any public school trust lands shall be
- 13 approved by no less than two-thirds of the members of
- 14 the commission.

15 § -6 **Duties and Responsibilities.** The commission shall

16 have the duties and responsibilities to manage, administer, and

17 exercise control over the public school lands trust in

18 accordance with this chapter. In addition to its other duties

19 and responsibilities, the commission shall:

- 20 (1) Within one year of its appointment, identify excess
- 21 and underutilized public school lands and identify



- 1 public school lands sites with the potential for
2 redevelopment;
- 3 (2) Develop a strategic plan and implementation schedule
4 for the redevelopment of public school lands;
- 5 (3) Consistent with the department of education's
6 facilities plans, prepare development plans for school
7 sites that have the potential for generating revenues
8 along with improving school facilities at the
9 respective sites;
- 10 (4) Engage the services of consultants for rendering
11 professional or technical assistance and advice to
12 provide for generating revenues from unused or
13 underutilized public school trust lands;
- 14 (5) Recommend the issuance of special purpose revenue
15 bonds for the purpose of loaning or otherwise applying
16 bond proceeds in accordance with redevelopment
17 projects approved by the commission;
- 18 (6) Implement the redevelopment of public school lands;
19 and
- 20 (7) No less than twenty days prior to the convening of
21 each legislative session, provide an annual report of
22 the commission's activities to the legislature.



1 § -7 Redevelopment process. (a) In cooperation with
2 the department of education, the commission shall identify
3 public school trust lands with the potential for redevelopment.

4 (b) For each of the lands identified, a preliminary study
5 shall be undertaken to determine the highest and best use of the
6 land, which shall consider and describe:

7 (1) The current appraised value of the land;

8 (2) The redevelopment potential of the land;

9 (3) How the existing school will be affected during
10 redevelopment;

11 (4) How the redevelopment meets the requirements for
12 school facilities for the twenty-first century and
13 beyond;

14 (5) County zoning and land use issues; and

15 (6) Other pertinent or potential issues.

16 There shall be held at least one public hearing prior to
17 completion of the preliminary study.

18 (c) Upon consideration of the preliminary study, the
19 commission may authorize the commencement of a process in which
20 redevelopment proposals are solicited and analyzed in accordance
21 with practices and procedures adopted by the commission. The
22 executive director shall provide a report to the commission



1 describing and evaluating all of the redevelopment proposals
2 duly submitted. Prior to approving any redevelopment proposal,
3 the commission shall hold a public hearing, which may include at
4 the discretion of the commission, all proposals submitted or
5 selected proposals that the commission deems to best serve the
6 public interest and the purposes of this chapter.

7 § -8 Proceeds generated by redevelopment projects. All
8 proceeds generated through redevelopment projects under this
9 chapter shall be deposited into the school facilities special
10 fund under section 302A-B; provided that proceeds derived from
11 the sale of public school trust lands shall be deposited into
12 the public school lands trust permanent fund under section
13 302A-A; provided further that \$ or ten per cent of the
14 proceeds, whichever is less, shall be allocated for the
15 administration of this chapter."

16 SECTION 3. Chapter 302A, Hawaii Revised Statutes, is
17 amended by adding two new sections to be appropriately
18 designated and to read as follows:

19 "§302A-A Public school lands trust permanent fund. There
20 is established the public school lands trust permanent fund into
21 which shall be deposited all proceeds from the sale of public
22 school trust lands pursuant to chapter . The fund shall be



1 administered by the director of finance who shall maintain the
2 corpus of the fund. Any and all interest income accruing to
3 this fund shall be deposited into the school facilities special
4 fund established in section 302A-B.

5 §302A-B School facilities special fund. (a) There is
6 established a school facilities special fund into which shall be
7 deposited all proceeds from leases, permits, interest from sale
8 contracts, interest income generated from the public school
9 lands trust permanent fund, and other revenue generated from the
10 non-permanent disposition of public school trust lands under
11 chapter .

12 (b) The school facilities special fund shall be
13 administered by the department. Except as otherwise authorized
14 by statute, all moneys in the school facilities special fund
15 shall be used to construct and improve public school facilities
16 to meet the challenges of the twenty-first century and beyond;
17 provided that up to twenty per cent of the moneys in the school
18 facilities special fund may be allocated for general repairs and
19 maintenance; provided further that not more than five per cent
20 of the moneys in the school facilities special fund shall be
21 used to offset normal school expenditures."



1 SECTION 4. Section 171-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§171-2 Definition of public lands. "Public lands" means
4 all lands or interest therein in the State classed as government
5 or crown lands previous to August 15, 1895, or acquired or
6 reserved by the government upon or subsequent to that date by
7 purchase, exchange, escheat, or the exercise of the right of
8 eminent domain, or in any other manner; including accreted lands
9 not otherwise awarded, submerged lands, and lands beneath tidal
10 waters which are suitable for reclamation, together with
11 reclaimed lands which have been given the status of public lands
12 under this chapter, except:

- 13 (1) Lands designated in section 203 of the Hawaiian Homes
14 Commission Act, 1920, as amended;
- 15 (2) Lands set aside pursuant to law for the use of the
16 United States;
- 17 (3) Lands being used for roads and streets;
- 18 (4) Lands to which the United States relinquished the
19 absolute fee and ownership under section 91 of the
20 Hawaiian Organic Act prior to the admission of Hawaii
21 as a state of the United States unless subsequently
22 placed under the control of the board of land and



1 natural resources and given the status of public lands
2 in accordance with the State Constitution, the
3 Hawaiian Homes Commission Act, 1920, as amended, or
4 other laws;

5 (5) Lands to which the University of Hawaii holds title;

6 (6) Lands to which the Hawaii housing finance and
7 development corporation in its corporate capacity
8 holds title;

9 (7) Lands to which the Hawaii community development
10 authority in its corporate capacity holds title;

11 (8) Lands to which the department of agriculture holds
12 title by way of foreclosure, voluntary surrender, or
13 otherwise, to recover moneys loaned or to recover
14 debts otherwise owed the department under chapter 167;

15 (9) Lands which are set aside by the governor to the Aloha
16 Tower development corporation; lands leased to the
17 Aloha Tower development corporation by any department
18 or agency of the State; or lands to which the Aloha
19 Tower development corporation holds title in its
20 corporate capacity;

21 (10) Lands which are set aside by the governor to the
22 agribusiness development corporation; lands leased to



1 the agribusiness development corporation by any
 2 department or agency of the State; or lands to which
 3 the agribusiness development corporation in its
 4 corporate capacity holds title; [and]

5 (11) Lands to which the high technology development
 6 corporation in its corporate capacity holds title[-];
 7 and

8 (12) Lands designated as public school trust lands under
 9 chapter _____."

10 SECTION 5. In codifying the new sections added by section
 11 3 of this Act, the revisor of statutes shall substitute
 12 appropriate section numbers for the letters used in designating
 13 the new sections in this Act.

14 SECTION 6. Statutory material to be repealed is bracketed
 15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect upon its approval.
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INTRODUCED BY:

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Report Title:

Education; Public School Lands Trust

Description:

Establishes the public school lands trust to provide for the maximum use of public school lands in order to generate income to improve public school facilities and infrastructure to meet the challenges of the twenty-first century and beyond.

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

