



GOV. MSG. NO. 1425

EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

July 09, 2012

The Honorable Shan Tsutsui, President  
and Members of the Senate  
Twenty-Sixth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

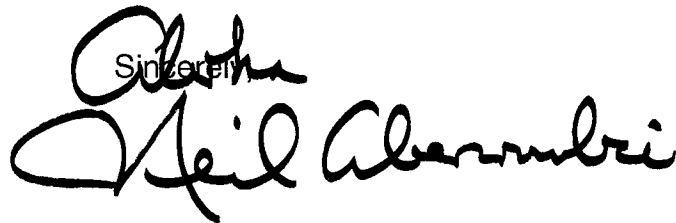
The Honorable Calvin Say, Speaker  
and Members of the House  
Twenty-Sixth State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 09, 2012, the following bill was signed into law:

HB1054 HD1 SD1 CD1

RELATING TO EDUCATION.  
**Act 308 (12)**

*Sincerely,*  


NEIL ABERCROMBIE  
Governor, State of Hawaii

Approved by the Governor

JUL 9 2012

ORIGINAL

ACT 308

on  
HOUSE OF REPRESENTATIVES  
TWENTY-SIXTH LEGISLATURE, 2011  
STATE OF HAWAII

H.B. NO. 1054  
H.D. 1  
S.D. 1  
C.D. 1

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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 a strong public  
2 library system contributes to the economic, educational, and  
3 cultural vitality of the State.

4 The legislature further finds that under existing law, the  
5 state librarian may issue licenses, revocable permits,  
6 concessions, and rights of entry to only two entities: the  
7 Hawaii State Library Foundation and Friends of the Library of  
8 Hawaii. The legislature finds that there are other private  
9 entities that may be able to provide an equal or greater benefit  
10 to the Hawaii state public library system if given an equal  
11 opportunity to participate.

12 The purpose of this Act is to, among other things:

13 (1) Authorize the board of education to enter into certain  
14 arrangements or contracts, approved by the governor,  
15 with any 501(c)(3) tax-exempt nonprofit corporation  
16 whose primary purpose is the support of a state  
17 library branch;



- 1 (2) Amend section 312-3.7, Hawaii Revised Statutes, to  
2 require that the results of the annual audit of the  
3 Hawaii state library foundation trust fund be  
4 submitted to the legislature and the board of  
5 education;
- 6 (3) Authorize the head librarian of each library branch to  
7 receive requests for and to issue licenses, revocable  
8 permits, concessions, or rights of entry for the use  
9 of library facilities and grounds, with the approval  
10 of the state librarian, in consultation with the board  
11 of education;
- 12 (4) Authorize affiliates of the Friends of the Library of  
13 Hawaii and certain nonprofit organizations supporting  
14 state library branches to use state library facilities  
15 for concessions, vending machines, and other  
16 activities and to maintain their own accounts for the  
17 net proceeds under specified conditions;
- 18 (5) Require that the Friends of the Library of Hawaii and  
19 specified tax-exempt nonprofit organizations report on  
20 the proceeds and accounts; and
- 21 (6) Authorize the board of education to adopt rules  
22 pursuant to chapter 91, Hawaii Revised Statutes, to



1 carry out the purposes of section 312-3.8, Hawaii  
2 Revised Statutes.

3 It is the intent of the legislature that this Act will  
4 provide the opportunity for every individual and every entity to  
5 support their public library at the community level. Nothing in  
6 this Act should be construed to limit the ability of individuals  
7 and entities to support their local libraries.

8 SECTION 2. Section 312-2, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "§312-2 Powers of board; special fund. The board of  
11 education may:

12 (1) Except as provided in section 312-3.9, make  
13 arrangements or contracts as are approved by the  
14 governor, with any county, city, association, society,  
15 person, or persons, for the purpose of benefiting the  
16 libraries and increasing their facilities and use;

17 (2) Subject to section 26-12, enter into such arrangement  
18 or contract as is approved by the governor, with the  
19 Friends of the Library of Hawaii, affiliates of the  
20 Friends of the Library of Hawaii, and any tax-exempt  
21 nonprofit organization recognized under section  
22 501(c)(3) of the Internal Revenue Code whose primary



1           purpose is to support a state library branch for the  
2           purpose of obtaining the use of the books and property  
3           and income of the Friends of the Library of Hawaii[+],  
4           its affiliates, and such tax-exempt nonprofit  
5           organizations;

6           (3) Cooperate by exchange and otherwise with libraries now  
7           existing or hereafter to be formed;

8           (4) Receive, use, manage, or invest moneys or other  
9           property, real, personal, or mixed which may be given,  
10          bequeathed, devised, or in any manner received from  
11          sources other than the legislature or any federal  
12          appropriation for any or all purposes of the  
13          libraries;

14          (5) Deposit with the director of finance in a special fund  
15          all moneys donated to the board for library services;

16          (6) Unless otherwise provided for by the terms and  
17          conditions of the donation, convert, at such time as  
18          the board may at its sole discretion determine, any or  
19          all donations of property, real, personal, or mixed,  
20          into money to be deposited into the special fund; and



1           (7) Expend the moneys in the special fund in accordance  
2                   with the terms and conditions of each donation for the  
3                   purposes of the libraries.

4   The board shall be the trustee of the special fund and all  
5   moneys therein shall be deemed to have been appropriated to the  
6   use and for the purposes of the board in providing library  
7   services. Nothing in this section shall be construed to limit  
8   the powers and duties of the board hereinbefore expressed, or to  
9   empower the board to obligate the State financially in any sum  
10  which shall not have been appropriated by the legislature for  
11  the use of the board."

12           SECTION 3. Section 312-3.7, Hawaii Revised Statutes, is  
13  amended by amending subsection (d) to read as follows:

14           "(d) The Hawaii state library foundation shall require an  
15  annual audit of the trust fund, the results of which shall be  
16  submitted to the [~~department~~] board of education and the  
17  legislature not more than thirty days after receipt by the  
18  foundation. The foundation shall retain for a period of three  
19  years, any documents, papers, books, records, and other evidence  
20  that is pertinent to the trust fund, and permit inspection or  
21  access thereto by the [~~department~~] board of education, the state  
22  librarian, the department of accounting and general services,



1 state legislators, and the state auditor, or their duly  
2 authorized representatives."

3 SECTION 4. Section 312-3.8, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "~~§312-3.8 [Hawaii state library foundation and friends of~~  
6 ~~the library of Hawaii concessions; use]~~ Use of public library  
7 facilities. (a) Notwithstanding any law to the contrary, the  
8 [~~Hawaii state public library system, through the state~~  
9 ~~librarian, shall be authorized to issue]~~ head librarian of each  
10 library branch may request the issuance of licenses, revocable  
11 permits, concessions, or rights of entry to [the Hawaii state  
12 library foundation and the friends of the library of Hawaii  
13 and]:

- 14 (1) The Friends of the Library of Hawaii;  
15 (2) Affiliates of the Friends of the Library of Hawaii,  
16 through and with approval of the Friends of the  
17 Library of Hawaii; and  
18 (3) Any tax-exempt nonprofit organization recognized by  
19 the Internal Revenue Service under section 501(c)(3)  
20 of the Internal Revenue Code whose primary purpose is  
21 to support a state library branch,



1 for the use of public library system facilities and grounds,  
2 with the approval of the state librarian, in consultation with  
3 the board of education, for such periods of use as deemed  
4 appropriate by the state librarian. The state librarian shall  
5 administer any licenses, revocable permits, concessions, or  
6 rights of entry issued pursuant to this section. All such  
7 dispositions, including those in excess of fourteen days, need  
8 not be approved by the board of land and natural resources;  
9 provided that approval by the board of land and natural  
10 resources shall be required when such dispositions are for  
11 periods in excess of one year.

12 (b) Notwithstanding any law to the contrary, all net  
13 [~~income or~~] proceeds received by [~~the Hawaii state library~~  
14 ~~foundation and the friends of the library of Hawaii~~] the Friends  
15 of the Library of Hawaii from the operation of any concession,  
16 vending machine, or other [~~for profit business enterprise~~]  
17 activity through a state-wide contract within, or on the grounds  
18 of, any state library facility shall be deposited into the  
19 [~~Hawaii state library foundation trust fund or the friends of~~  
20 ~~the library of Hawaii trust fund, as appropriate.~~] Friends of  
21 the Library of Hawaii trust fund. All funds deposited into the





1 trust [~~funds,~~] fund, including income and capital gains earned  
2 therefrom, shall be used exclusively for state library programs.

3 (c) Notwithstanding any law to the contrary, all net  
4 proceeds received by the Friends of the Library of Hawaii, an  
5 affiliate of the Friends of the Library of Hawaii, or any  
6 nonprofit organization from the operation of any concession,  
7 vending machine, or other activity within, or on the grounds of,  
8 any state library facility shall be deposited into an account in  
9 a federally insured financial institution, with such account  
10 being held in that organization's name and controlled  
11 exclusively by that organization, which shall have sole  
12 authority and discretion in the disbursement of its funds. All  
13 funds deposited into the account, including income and capital  
14 gains earned therefrom, shall be used exclusively for the state  
15 library or libraries that the Friends of the Library of Hawaii,  
16 affiliate of the Friends of the Library of Hawaii, or nonprofit  
17 organization is organized to support.

18 (d) No later than September 30 of each year, the Friends  
19 of the Library of Hawaii and any nonprofit organization that has  
20 been issued a license, revocable permit, concession, or right of  
21 entry for the use of state public library system facilities and



1 grounds shall submit to the state librarian an annual financial  
2 statement. The annual financial statement shall include:

3 (1) The name and address of any financial institution in  
4 which the net proceeds from the operation of any  
5 concession, vending machine, or other activity within,  
6 or on the grounds of, any state library facility were  
7 deposited and held;

8 (2) The name of any account, account number, and balance  
9 of all such accounts;

10 (3) A reasonable description of deposits into the account;  
11 and

12 (4) A reasonable description of withdrawals and  
13 disbursements including how the withdrawals and  
14 disbursements were used to support the appropriate  
15 state library.

16 The annual financial statement of the Friends of the Library of  
17 Hawaii shall include the financial statements, satisfying the  
18 criteria set forth above, of all of its affiliates that were  
19 issued a license, revocable permit, concession, or right of  
20 entry for the use of state library system facilities and  
21 grounds.



1       (e) The Friends of the Library of Hawaii, affiliates of  
2 the Friends of the Library of Hawaii, and any nonprofit  
3 organization that receives net proceeds from the operation of  
4 any concession, vending machine, or other activity within, or on  
5 the grounds of, any state library facility shall keep true and  
6 accurate records as to their activities in a form that will  
7 accurately provide support for the information required by this  
8 section. Upon demand, the records shall be made available to  
9 the state librarian for inspection. Records shall be retained  
10 for a period of not less than five years.

11       (f) The state librarian shall, upon ten days notice,  
12 revoke any license, permit, concession, or right of entry issued  
13 if the Friends of the Library of Hawaii, any affiliate of the  
14 Friends of the Library of Hawaii, or any tax-exempt nonprofit  
15 organization recognized by the Internal Revenue Service under  
16 section 501(c)(3) of the Internal Revenue Code whose primary  
17 purpose is to support a state library branch fails to comply  
18 with any provision of this section, including the submission of  
19 an annual financial statement. The state librarian may, at the  
20 state librarian's discretion, in consultation with the board of  
21 education, re-issue a license, permit, concession, or right of  
22 entry upon compliance with this section.



1        (g) For purposes of this section:

2        "Affiliate of the Friends of the Library of Hawaii" means  
3        any organization or entity that enters into a written agreement  
4        with the Friends of the Library of Hawaii to be an affiliate.

5        The affiliate is not required to be recognized by the Internal  
6        Revenue Service as a tax-exempt nonprofit organization.

7        "Net proceeds" means all revenue generated from the  
8        operation of any concession, vending machine, or other activity  
9        within, or on the grounds of, any state library facility minus  
10       the costs incurred in generating those revenues, including but  
11       not limited to payments to third-party vendors and any expenses  
12       associated with operating the organization.

13       (h) The board of education may adopt rules pursuant to  
14       chapter 91 to carry out the purpose of this section."

15       SECTION 5. Statutory material to be repealed is bracketed  
16       and stricken. New statutory material is underscored.

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

APPROVED this 9 day of JUL , 2012



GOVERNOR OF THE STATE OF HAWAII

