
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 is concern that
9 allowing exclusive use of state facilities creates a special
10 privilege for specific private entities even though other
11 private entities may be able to provide an equal or greater
12 benefit to the Hawaii state public library system if given an
13 equal opportunity to participate. The original intent of the
14 existing law was not to create exclusive-use privileges but
15 rather to encourage greater private-public partnerships to
16 benefit the Hawaii state public library system at the community
17 level.

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



- 1 (1) Authorize the board of education to enter into certain
2 arrangements or contracts, approved by the governor,
3 with any 501(c)(3) tax-exempt nonprofit corporation
4 whose primary purpose is the support of a public
5 library, or an affiliate of the nonprofit corporation;
- 6 (2) Authorize the deposit of private donations and moneys
7 collected pursuant to section 312-3.8, Hawaii Revised
8 Statutes, into the libraries special fund;
- 9 (3) Clarify that privately donated moneys which are
10 specified by a donor to be for the benefit of a
11 specific public library shall be disbursed to the
12 specified public library for the sole use of that
13 library;
- 14 (4) Clarify that the state librarian may establish
15 subaccounts within the libraries special fund to
16 account for donations to specific library branches and
17 may restrict the use of such donations for the benefit
18 of the specified library branch;
- 19 (5) Authorize the head librarian of each library branch,
20 with the approval of the state librarian, and in
21 consultation with the board of education, to issue



- 1 licenses, revocable permits, concessions, or rights of
2 entry for the use of library facilities and grounds;
- 3 (6) Delete all references to the Hawaii State Library
4 Foundation and Friends of the Library of Hawaii in
5 chapter 312, Hawaii Revised Statutes, in order to
6 remove any appearance of a special privilege to
7 specific entities;
- 8 (7) Require the board of education to determine the amount
9 of net income or proceeds received from the operation
10 of any concession, vending machine, or other for-
11 profit business enterprise within or on state library
12 facilities to be deposited into the libraries special
13 fund;
- 14 (8) Clarify that nothing in section 312-3.8, Hawaii
15 Revised Statutes, shall be construed to require a
16 library to issue a license, permit, concession, or
17 right of entry in order for any entity to establish a
18 tax-exempt nonprofit corporation recognized under
19 section 501(c)(3) of the Internal Revenue Code whose
20 primary purpose is to support and benefit that library
21 or for any entity or individual to donate funds
22 exclusively to that library;



1 (9) Clarify that book sales held within, or on the grounds
2 of, any state library facility shall not constitute a
3 concession;

4 (10) Require the board of education to adopt rules pursuant
5 to chapter 91, Hawaii Revised Statutes, to carry out
6 the purposes of section 312-3.8, Hawaii Revised
7 Statutes; and

8 (11) Repeal section 312-3.7, Hawaii Revised Statutes, which
9 established the Hawaii state library foundation trust
10 fund.

11 It is the intent of the legislature that this Act will
12 provide the opportunity for every individual and every entity to
13 support their public library at the community level. Nothing in
14 this Act should be construed to limit the ability of individuals
15 and entities to support their local libraries.

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

18 "**§312-2 Powers of board; special fund.** The board of
19 education may:

20 (1) Except as provided in section 312-3.9, make
21 arrangements or contracts as are approved by the
22 governor, with any county, city, association, society,



- 1 person, or persons, for the purpose of benefiting the
2 libraries and increasing their facilities and use;
- 3 (2) Subject to section 26-12, enter into such arrangement
4 or contract as is approved by the governor, with [~~the~~
5 ~~Friends of the Library of Hawaii,~~] any tax-exempt
6 nonprofit corporation recognized under section
7 501(c)(3) of the Internal Revenue Code whose primary
8 purpose is the support of a library within the Hawaii
9 state public library system or an affiliate of the
10 nonprofit corporation, for the purpose of obtaining
11 the use of the books and property and income of [~~the~~
12 ~~Friends of the Library of Hawaii,~~] that tax-exempt
13 nonprofit corporation or its affiliate;
- 14 (3) Cooperate by exchange and otherwise with libraries now
15 existing or hereafter to be formed;
- 16 (4) Receive, use, manage, or invest moneys or other
17 property, real, personal, or mixed which may be given,
18 bequeathed, devised, or in any manner received from
19 sources other than the legislature or any federal
20 appropriation for any or all purposes of the
21 libraries;



- 1 (5) Deposit with the director of finance in a special fund
2 all moneys donated to the board for library services;
- 3 (6) Unless otherwise provided for by the terms and
4 conditions of the donation, convert, at such time as
5 the board may at its sole discretion determine, any or
6 all donations of property, real, personal, or mixed,
7 into money to be deposited into the special fund; and
- 8 (7) Expend the moneys in the special fund in accordance
9 with the terms and conditions of each donation for the
10 purposes of the libraries.

11 The board shall be the trustee of the special fund and all
12 moneys therein shall be deemed to have been appropriated to the
13 use and for the purposes of the board in providing library
14 services. Nothing in this section shall be construed to limit
15 the powers and duties of the board hereinbefore expressed, or to
16 empower the board to obligate the State financially in any sum
17 which shall not have been appropriated by the legislature for
18 the use of the board."

19 SECTION 3. Section 312-3.6, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§312-3.6 Libraries special fund.** (a) There is
22 established in the state treasury a libraries special fund into



1 which shall be deposited all private donations, all moneys
2 collected pursuant to [~~section~~] sections 312-3.5 [~~7~~] and 312-3.8,
3 and all moneys designated to be paid to this fund pursuant to
4 section 235-102.5(c).

5 (b) The fund shall be administered by the state librarian
6 who shall, unless otherwise directed by the library advisory
7 committee, disburse to each public library, the amount
8 commensurate with the moneys received from the library under
9 [~~section~~] sections 312-3.5 and 312-3.8 over the previous fiscal
10 period. Allocations shall be made in quarterly installments
11 within thirty days of the end of each calendar quarter.

12 (c) [~~Moneys~~] Unless otherwise provided by law, moneys
13 allocated from the libraries special fund to the public
14 libraries shall be used to purchase books or other library
15 materials. Each public library may post on a bulletin board or
16 other appropriate place a list of the purchases made from the
17 special fund in the preceding quarter.

18 (d) The state librarian shall submit an annual report on
19 the status of the libraries special fund, to include information
20 regarding:

21 (1) Deposits into the fund and the source of these
22 revenues;



- 1 (2) Allocations to each public library, including
2 allocations established for both the fiscal year
3 covered by the annual report and the subsequent fiscal
4 year;
- 5 (3) Descriptions and amounts of expenditures made from the
6 fund;
- 7 (4) Balances remaining on June 30 of each year;
- 8 (5) Financial information regarding receipt sources by
9 individual libraries; and
- 10 (6) Actual expenditure of receipts by individual
11 libraries;

12 provided that this report shall be submitted to the legislature
13 and to the governor, or the director of finance if so delegated
14 by the governor, no later than twenty days prior to the
15 convening of each regular session of the legislature.

16 [+] (e) [+] The state librarian may receive privately
17 donated moneys and use such moneys in any of the library
18 system's accounts or funds to support the operations of the
19 library system, including the payment of staff salaries and
20 expenses related to operations of library facilities; provided
21 that the donor is advised that the donated moneys may be used
22 for these purposes[-]; provided further that privately donated



1 moneys which are specified by the donor to be for the benefit of
2 a specific public library shall be disbursed to the specified
3 public library for the sole use of that library.

4 (f) Nothing in this section shall preclude the state
5 librarian from creating subaccounts within the libraries special
6 fund to itemize private donations for the benefit of individual
7 library branches."

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

10 "§312-3.8 [~~Hawaii state library foundation and friends of~~
11 ~~the library of Hawaii concessions; use]~~ Use of public library
12 facilities. (a) Notwithstanding any law to the contrary, the
13 Hawaii state public library system, through the head librarian
14 of each library branch, with the approval of the state
15 librarian, and in consultation with the board of education,
16 shall be authorized to issue licenses, revocable permits,
17 concessions, or rights of entry [~~to the Hawaii state library~~
18 ~~foundation and the friends of the library of Hawaii]~~ for the use
19 of public library system facilities and grounds and for [~~such~~]
20 any periods of use as deemed appropriate by the state librarian.
21 All such dispositions, including those in excess of fourteen
22 days, need not be approved by the board of land and natural



1 resources; provided that approval by the board of land and
2 natural resources shall be required when such dispositions are
3 for periods in excess of one year.

4 (b) Notwithstanding any law to the contrary, [all] the
5 board of education shall determine the amount of net income or
6 proceeds received ~~[by the Hawaii state library foundation and~~
7 ~~the friends of the library of Hawaii]~~ from the operation of any
8 concession, vending machine, or other for-profit business
9 enterprise within, or on the grounds of, any state library
10 facility that shall be deposited into the ~~[Hawaii state library~~
11 ~~foundation trust fund or the friends of the library of Hawaii~~
12 ~~trust fund, as appropriate.]~~ libraries special fund established
13 pursuant to section 312-3.6. All funds deposited into the
14 ~~[trust funds,]~~ special fund, including income and capital gains
15 earned therefrom, shall be used exclusively for state library
16 programs.

17 (c) Nothing in this section shall be construed to require
18 a library within the Hawaii state public library system to issue
19 a license, revocable permit, concession, or right of entry
20 pursuant to this section in order for an entity to establish a
21 tax-exempt nonprofit corporation recognized under section
22 501(c)(3) of the Internal Revenue Code whose primary purpose is



1 to support and benefit that specific library or to donate funds
2 exclusively to that specific library.

3 (d) Any book sale held within, or on the grounds of, any
4 state library facility shall not constitute a concession for
5 purposes of this section.

6 (e) The board of education shall adopt rules pursuant to
7 chapter 91 to carry out the purposes of this section."

8 SECTION 5. Section 312-3.7, Hawaii Revised Statutes, is
9 repealed.

10 ~~["§312-3.7 Hawaii state library foundation trust fund.~~

11 ~~(a) There is established as a separate fund of the Hawaii state~~
12 ~~library foundation, a Hawaii nonprofit corporation, the Hawaii~~
13 ~~state library foundation trust fund. All funds contributed to~~
14 ~~the trust fund, including income and capital gains earned~~
15 ~~therefrom, shall be used exclusively for state library programs~~
16 ~~as defined in the articles, bylaws, resolutions, and other~~
17 ~~instruments executed on behalf of the Hawaii state library~~
18 ~~foundation or by the state librarian. The trust fund may~~
19 ~~receive any and all types of private contributions, and the~~
20 ~~income and capital gains earned by the fund; provided that funds~~
21 ~~or properties donated for library use and patrons' deposits~~
22 ~~shall be deposited and accounted for in accordance with rules~~



1 ~~adopted by the comptroller. The trust fund shall be subject to~~
2 ~~the following restrictions:~~

3 ~~(1) All funds, and the income and capital gains earned by~~
4 ~~investment of those funds, shall be expended only for~~
5 ~~the support of state library programs; and~~

6 ~~(2) Other restrictions imposed by the legislature with~~
7 ~~respect to the transfer or appropriation of funds.~~

8 ~~(b) Any funds deposited in the trust fund, and any income~~
9 ~~and capital gains earned therefrom, not used for state library~~
10 ~~programs, shall be invested in accordance with the provisions of~~
11 ~~the articles, bylaws, resolutions, or other instruments executed~~
12 ~~on behalf of the Hawaii state library foundation, and in a~~
13 ~~manner intended to maximize the rate of return on investment of~~
14 ~~the fund.~~

15 ~~(c) If the trust fund is terminated or the Hawaii state~~
16 ~~library foundation is dissolved, all funds, including the income~~
17 ~~and capital gains earned by the investment of funds, shall be~~
18 ~~distributed in accordance with the articles and bylaws of the~~
19 ~~Hawaii state library foundation.~~

20 ~~(d) The Hawaii state library foundation shall require an~~
21 ~~annual audit of the trust fund, the results of which shall be~~
22 ~~submitted to the department of education not more than thirty~~



1 ~~days after receipt by the foundation. The foundation shall~~
2 ~~retain for a period of three years, any documents, papers,~~
3 ~~books, records, and other evidence that is pertinent to the~~
4 ~~trust fund, and permit inspection or access thereto by the~~
5 ~~department of education, the state librarian, the department of~~
6 ~~accounting and general services, state legislators, and the~~
7 ~~state auditor, or their duly authorized representatives.~~

8 ~~(c) The purpose of this section is to create by statute a~~
9 ~~private charitable trust fund to financially support state~~
10 ~~library programs. The trust fund shall be subject to the terms~~
11 ~~and conditions provided in this section. The trust fund shall~~
12 ~~not be placed in the state treasury and the State shall not~~
13 ~~administer the fund nor be liable for its operation or solvency.~~
14 ~~The fund shall be a private charitable trust fund administered~~
15 ~~by a private trust company as trustee."]~~

16 SECTION 6. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 7. This Act shall take effect upon its approval.



Report Title:

Education; State Libraries

Description:

Clarifies that the board of education may enter into an agreement with any tax-exempt nonprofit corporation recognized under section 501(c)(3) of the Internal Revenue Code or an affiliate to obtain the use of the books and property and income of that nonprofit corporation or its affiliate. Authorizes the deposit of private donations and moneys collected pursuant to section 312-3.8, HRS, into the libraries special fund. Clarifies that privately donated moneys for the benefit of a specific public library shall be disbursed to the specified public library for the sole use of that library. Clarifies that the state librarian may establish subaccounts within the libraries special fund. Amends section 312-3.8, HRS, to: (1) authorize the head librarian of each library branch, with the approval of the state librarian, and in consultation with the board of education, to issue licenses, revocable permits, concessions, or rights of entry for the use of public library facilities and grounds; (2) remove references to the Hawaii state library foundation and friends of the library of Hawaii; (3) require the board of education to determine the amount of net income or proceeds received for the operation of any concession, vending machine, or other for-profit business enterprise within or on state library facilities that shall be deposited into the libraries special fund; (4) clarify that nothing in section 312-3.8, HRS, shall be construed to require a library to issue a license, permit, concession, or right of entry in order for any entity to establish a tax-exempt nonprofit corporation recognized under section 501(c)(3) of the Internal Revenue Code whose primary purpose is to support and benefit that library or to donate funds exclusively to that library; (5) clarify that any book sale held within, or on the grounds of, any state library facility is not a concession; and (6) require the board of education to adopt administrative rules. Repeals the Hawaii state library foundation trust fund. (Proposed SD1)

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