
A BILL FOR AN ACT

RELATING TO STATE LIBRARIES.

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

1 SECTION 1. Section 312-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§312-2 Powers of board; special fund. The board of
4 education may:

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

10 (2) Subject to section 26-12, enter into such arrangement
11 or contract as is approved by the governor, with [~~the~~
12 ~~Friends of the Library of Hawaii,~~] any tax-exempt
13 nonprofit corporation recognized under section
14 501(c) (3) of the Internal Revenue Code whose primary
15 purpose is the support of a library within the Hawaii
16 state public library system, for the purpose of
17 obtaining the use of the books and property and income



- 1 of [~~the Friends of the Library of Hawaii,~~] that tax-
2 exempt nonprofit corporation;
- 3 (3) Cooperate by exchange and otherwise with libraries now
4 existing or hereafter to be formed;
- 5 (4) Receive, use, manage, or invest moneys or other
6 property, real, personal, or mixed which may be given,
7 bequeathed, devised, or in any manner received from
8 sources other than the legislature or any federal
9 appropriation for any or all purposes of the
10 libraries;
- 11 (5) Deposit with the director of finance in a special fund
12 all moneys donated to the board for library services;
- 13 (6) Unless otherwise provided for by the terms and
14 conditions of the donation, convert, at such time as
15 the board may at its sole discretion determine, any or
16 all donations of property, real, personal, or mixed,
17 into money to be deposited into the special fund; and
- 18 (7) Expend the moneys in the special fund in accordance
19 with the terms and conditions of each donation for the
20 purposes of the libraries.
- 21 The board shall be the trustee of the special fund and all
22 moneys therein shall be deemed to have been appropriated to the



1 use and for the purposes of the board in providing library
2 services. Nothing in this section shall be construed to limit
3 the powers and duties of the board hereinbefore expressed, or to
4 empower the board to obligate the State financially in any sum
5 which shall not have been appropriated by the legislature for
6 the use of the board."

7 SECTION 2. Section 312-3.6, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) There is established in the state treasury a
10 libraries special fund into which shall be deposited all moneys
11 collected pursuant to ~~[section]~~ sections 312-3.5[7] and 312-3.8,
12 and all moneys designated to be paid to this fund pursuant to
13 section 235-102.5(c)."

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

16 "§312-3.8 [~~Hawaii state library foundation and friends of~~
17 ~~the library of Hawaii concessions, use]~~ Use of public library
18 facilities. (a) Notwithstanding any law to the contrary, the
19 Hawaii state public library system, through the head librarian
20 of each library branch, with the approval of the state
21 librarian, and in consultation with the board of education,
22 shall be authorized to issue licenses, revocable permits,



1 concessions, or rights of entry [~~to the Hawaii state library~~
 2 ~~foundation and the friends of the library of Hawaii]~~ for the use
 3 of public library system facilities and grounds and for [~~such~~
 4 any periods of use as deemed appropriate by the state librarian.
 5 All such dispositions, including those in excess of fourteen
 6 days, need not be approved by the board of land and natural
 7 resources; provided that approval by the board of land and
 8 natural resources shall be required when such dispositions are
 9 for periods in excess of one year.

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



1 (c) Nothing in this section shall be construed to require
 2 a library within the Hawaii state public library system to issue
 3 a license, revocable permit, concession, or right of entry
 4 pursuant to this section in order for an entity to establish a
 5 tax-exempt nonprofit corporation recognized under section
 6 501(c)(3) of the Internal Revenue Code whose primary purpose is
 7 to support and benefit that specific library or to donate funds
 8 exclusively to that specific library.

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

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

14 SECTION 4. Section 312-3.7, Hawaii Revised Statutes, is
 15 repealed.

16 [~~§312-3.7 Hawaii state library foundation trust fund.~~

17 ~~(a) There is established as a separate fund of the Hawaii state~~
 18 ~~library foundation, a Hawaii nonprofit corporation, the Hawaii~~
 19 ~~state library foundation trust fund. All funds contributed to~~
 20 ~~the trust fund, including income and capital gains earned~~
 21 ~~therefrom, shall be used exclusively for state library programs~~
 22 ~~as defined in the articles, bylaws, resolutions, and other~~



~~1 instruments executed on behalf of the Hawaii state library
2 foundation or by the state librarian. The trust fund may
3 receive any and all types of private contributions, and the
4 income and capital gains earned by the fund; provided that funds
5 or properties donated for library use and patrons' deposits
6 shall be deposited and accounted for in accordance with rules
7 adopted by the comptroller. The trust fund shall be subject to
8 the following restrictions:~~

~~9 (1) All funds, and the income and capital gains earned by
10 investment of those funds, shall be expended only for
11 the support of state library programs; and~~

~~12 (2) Other restrictions imposed by the legislature with
13 respect to the transfer or appropriation of funds.~~

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

~~21 (c) If the trust fund is terminated or the Hawaii state
22 library foundation is dissolved, all funds, including the income~~



1 ~~and capital gains earned by the investment of funds, shall be~~
2 ~~distributed in accordance with the articles and bylaws of the~~
3 ~~Hawaii state library foundation.~~

4 ~~(d) The Hawaii state library foundation shall require an~~
5 ~~annual audit of the trust fund, the results of which shall be~~
6 ~~submitted to the department of education not more than thirty~~
7 ~~days after receipt by the foundation. The foundation shall~~
8 ~~retain for a period of three years, any documents, papers,~~
9 ~~books, records, and other evidence that is pertinent to the~~
10 ~~trust fund, and permit inspection or access thereto by the~~
11 ~~department of education, the state librarian, the department of~~
12 ~~accounting and general services, state legislators, and the~~
13 ~~state auditor, or their duly authorized representatives.~~

14 ~~(e) The purpose of this section is to create by statute a~~
15 ~~private charitable trust fund to financially support state~~
16 ~~library programs. The trust fund shall be subject to the terms~~
17 ~~and conditions provided in this section. The trust fund shall~~
18 ~~not be placed in the state treasury and the State shall not~~
19 ~~administer the fund nor be liable for its operation or solvency.~~
20 ~~The fund shall be a private charitable trust fund administered~~
21 ~~by a private trust company as trustee."]~~



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 2050.



Report Title:
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 to obtain the use of the books and property and income of that nonprofit. Authorizes the deposit of moneys collected pursuant to section 312-3.8, HRS, into 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. Effective 7/1/2050. (SD2)

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