

Date: 03/03/2011

Committee: House Finance

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Bill: HB 0952(hscr294) RELATING TO PUBLIC SCHOOL LANDS.

Purpose of Bill: 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.

Department's Position: The Department of Education (DOE) understands that the intent of this bill is to provide a mechanism where under (a) DOE can determine that portions of school campuses can be developed, or an entire campus can be redeveloped, (b) these properties can be developed or redeveloped, and (c) the net revenues generated by such development or redevelopment can be directed to DOE for innovative projects and programs. DOE supports this intent.

The bill as drafted does not clearly state these objectives, nor are the mechanisms proposed in the bill clearly oriented toward these desired outcomes. DOE supports appropriate amendments to this bill to accomplish the intent stated above. For example, it is not necessary that all DOE school sites (excluding those on federal, DHHL, or private land) be placed in the proposed public school lands trust, and the bill should provide that DOE, not the land trust commissioners, determine which DOE lands should be developed or redeveloped. The source of start-up funds for the lands trust commission and staff has not been identified. Start-up

funds will be required for a number of years before the trust will generate a positive cash flow.

Thank you for the opportunity to testify on this measure.

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 952

March 3, 2011

RELATING TO PUBLIC SCHOOL LANDS

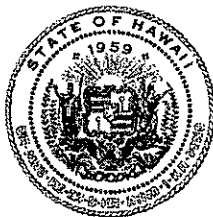
House Bill No. 952 establishes the Public School Lands Trust to maximize the use of public school lands and to generate income to improve public school facilities. This bill establishes the Public School Lands Trust Permanent Fund, into which shall be deposited all proceeds from the sale of public school trust lands. This bill also establishes the School Facilities Special Fund, into which shall be deposited the interest income accruing to the Public School Lands Trust Permanent Fund, and all proceeds from leases, permits, interest from sale contracts and other revenue. The School Facilities Special Fund shall be used to construct and improve public school facilities.

As a matter of general policy, the Department of Budget and Finance does not support the creation of any special fund which does not meet the requirements of Section 37-52.3 of the Hawaii Revised Statutes. Special or revolving funds should:

- 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program;
- 2) provide an appropriate means of financing for the program or activity;
- and 3) demonstrate the capacity to be financially self-sustaining.

In regards to House Bill No. 952, it is difficult to determine whether there is a clear nexus between the benefits sought and the charges made upon the users or beneficiaries of the program and whether the fund will be self-sustaining.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the House Committee on
FINANCE**

**Thursday, March 3, 2011
10:00 AM
State Capitol, Conference Room 308**

**In consideration of
HOUSE BILL 952
RELATING TO PUBLIC SCHOOL LANDS**

House Bill 952 authorizes the creation of a public school lands trust tasked with the management of public school trust lands. The trust would manage the lands for the purpose of maximizing the use of public school lands to generate income to fund improvements of school infrastructure. In addition, the bill provides for the transfer of title of all lands under state or county ownership, set aside by executive order to the Department of Education (DOE), to the trust for no compensation. The bill also provides for the creation of a public school lands trust commission (Commission) to manage, administer and exercise control over the public school trust lands. The Department of Land and Natural Resources (Department) has concerns with this bill as written.

The administrative responsibility for the Commission is placed with the Department. The Department is extremely concerned with this provision. As these lands would not generate income immediately, this would impose a tremendous administrative burden on the Department, which it currently cannot afford. The Department continues to face severe budget cutbacks. The Department's general fund appropriations and special fund revenues have dropped significantly over the last several years, and the Department lost more than 10% of its positions over the past three years. The bill imposes duties that would require a substantial amount of staff time and funding. The Department simply does not have the resources and staffing necessary to undertake the additional duties that would be required under this bill.

Furthermore, the Department would like to note that the Commission is akin to a development authority, but the bill does not provide the commission with special powers as granted to similar development agencies. This may hamper the Commission in its ability to successfully develop the lands and fully realize revenue generation potential.

WILLIAM J. AILA, JR.
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

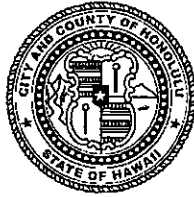
WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU

530 SOUTH KING STREET, ROOM 300 * HONOLULU, HAWAII 96813
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PETER B. CARLISLE
MAYOR



March 3, 2011

The Honorable Marcus Oshiro, Chair
House Committee on Finance
Twenty-Sixth Legislature
Regular Session of 2011
State of Hawaii

RE: Testimony of Mayor Peter Carlisle on H.B. 952, Relating to Public School Lands

Chair Oshiro and members of the House Committee on Finance, Mayor Peter Carlisle submits the following testimony with strong concerns regarding H.B. 952.

The purpose of this bill is to establish a public school land trust composed of all lands under the management of the state department of education as of July 1, 2011, except for lands owned by the Department of Hawaiian Home Lands, the federal government and any private persons or entities. Lands owned by the state and the counties would be included in the public school land trust. Deeds documenting the transfers are to be executed no later than July 1, 2013. The purpose of the trust is to maximize the use of the lands and to generate income to construct, repair, and retrofit public schools.

Although I certainly support the funding of public education, I do have concerns about the loss of over 900 acres of lands currently owned by the City and County of Honolulu without compensation or consideration. A significant portion of public schools on Oahu, sit on land owned by the county; the Department of Education has the use of a possessory interest in the school facilities and grounds located on county land. However, as the Department of Education (DOE) has on occasion relinquished its possessory interest in these properties as the DOE has realigned its schools to meet district demands. When those properties have been returned to the county, we have been able to find other uses for them which improve the surrounding communities or assist the county in carrying out its functions. Furthermore, the counties could also develop any land returned to it by the DOE upon school closures and generate revenues for the county, which is tasked with providing basic services such as police, fire and sewer services, road maintenance, and trash pick up, and which also faces with a budget deficit.

Besides the loss of county lands without any compensation, this bill fails to take into account that some county lands taken by this bill may not be sufficiently delineated or are unsuitable for development. Many of the schools on county land sit on parcels that also contain a park or playground; there often is no legal division between the park portion of the TMK parcel and the school portion. As this bill provides that all lands under the management of the state

DOE automatically transfers the county lands to the public school land trust upon the creation of the commission, it is unclear how a determination is made under the bill of exactly where the school ends and the park begins. So it is unclear to the county, the exact portion of parcels would actually be transferred to the land trust upon the creation of the commission. If the whole TMK parcel is being transferred, then the issue of whether a public park should be developed to create a revenue stream must be broached. If the park remains a park, it is unlikely to generate much revenue and will require revenue to maintain. Under these circumstances, it seems to be inadvisable to structure a bill which automatically takes all parcels of land without some kind of case by case review to determine which parcels are appropriate for development and which parcels are not. We would much prefer an approach in which the county retained ownership of the land and would work jointly with the commission to identify suitable county school lands for development, with proceeds being jointly shared between the land trust and the county.

Furthermore, although the TMK parcel can be subdivided, it is also unclear who will bear the costs of subdividing the parcel. It seems patently unfair to expect the counties to bear the costs of subdividing these parcels after the land is being taken away by operation of law without any compensation or consideration.

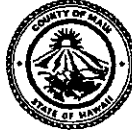
In closing I would note, that the Honolulu City Council has unanimously passed Resolution 11-60 urging the state legislature to shelve H.B. 952 for many of the same reasons, I have noted above.

For these reasons, I respectfully ask that this bill be held and thank you for this opportunity to present these comments.

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White

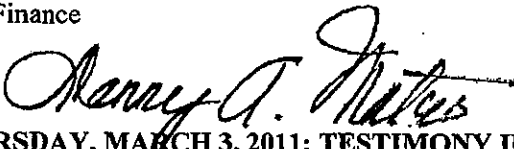


Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.maui-county.gov/council

March 2, 2011

TO: The Honorable Marcus R. Oshiro, Chair
House Committee on Finance

FROM: Danny A. Mateo
Council Chair 

SUBJECT: **HEARING OF THURSDAY, MARCH 3, 2011; TESTIMONY IN OPPOSITION TO
HB 952, RELATING TO PUBLIC SCHOOL LANDS**

Thank you for the opportunity to testify in opposition to this important measure. The purpose of this measure is to provide for the maximum use of public school lands in order to generate income to improve public school facilities and infrastructure.

The Maui County Council has not had the opportunity to take a formal position on this measure. Therefore, I am providing this testimony in my capacity as an individual member of the Maui County Council.

I oppose this measure for the following reasons:

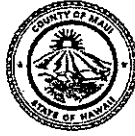
1. This measure proposes that title to public school lands held by the counties shall be transferred to a public school lands trust, without compensation. While I support finding ways to fund school infrastructure that can meet modern educational demands, this measure, if enacted, could result in the loss of many parks in the County of Maui that are not only used by our public schools, but also by the rest of the community. There are numerous schools in Maui County that are adjacent to county parks. The loss of these vital parks would be extremely detrimental to the residents of Maui County.
2. The County of Maui is responsible for the maintenance and upkeep of the parks adjacent to public schools. Appropriating money for groundskeeping is not a priority for the Department of Education. If these parks are not selected for sale or redevelopment through the process proposed by the bill, it is not clear who will be responsible for maintaining the parks. If that responsibility becomes the responsibility of the Department of Education, many parks may fall into disrepair.
3. The measure proposes to allow for the sale or redevelopment of public school lands with minimal safeguards for the community. The proposed redevelopment process only requires two public hearings, despite the significant impacts that redevelopment may have on the surrounding community.

For the foregoing reasons, I oppose this measure.

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White



Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
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200 S. HIGH STREET
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www.mauicounty.gov/council

March 2, 2011

TO: Honorable Marcus Oshiro, Chair
House Committee on Finance

FROM: Robert Carroll
Council Member, East Maui

DATE: Thursday, March 3, 2011 at 10:00a in Conference Room 308m, State Capitol

SUBJECT: **OPPOSITION TO HB 952, RELATING TO PUBLIC SCHOOL LANDS**

I oppose HB 952 for the reasons cited in testimony submitted by the Maui County Council Chair Danny Mateo and urge you to oppose this measure.

Respectfully,

A handwritten signature in cursive script that reads "Robert Carroll".

Robert Carroll
Councilmember, East Maui

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
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Michael P. Victorino
Mike White



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March 2, 2011

TO: Honorable Marcus R. Oshiro, Chair
House Committee on Finance

FROM: Joseph Pontanilla, Council Vice- Chair

A handwritten signature in cursive script, appearing to read "Joseph Pontanilla".

DATE: Thursday March 3, 2011

SUBJECT: **OPPOSITION OF HB 952 RELATING TO PUBLIC SCHOOL LANDS**

Thank you for the opportunity to testify in opposition of this measure. I provide this testimony as an individual member of the Maui County Council.

I **oppose HB 952** for the reasons cited in testimony submitted by Maui County Council Chair Danny A. Mateo and urge you not to support this measure.

11:03:02:kbn/JP: HB 952



HB 952
RELATING TO PUBLIC SCHOOL LANDS
House Committee on Finance

March 3, 2011

10:00 a.m.

Room 308

The Office of Hawaiian Affairs (OHA) **OPPOSES** HB 952, which would transfer title of public land currently held by the Department of Education (DOE) to a public school land trust.

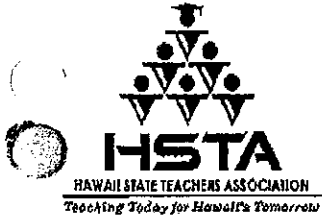
OHA is opposing this measure because the proposed public school land trust would be given the authority to sell public land under certain circumstances, including ceded land and public trust land.

A review of the State Land Information Management System (SLIMS) shows that at least 1,515 acres of state land set aside for public education purposes are part of the public land trust, and therefore are ceded lands. Notably, SLIMS only provides public land trust status for *state* lands, not county lands. Therefore, we are unable to ascertain how many acres of county lands set aside for public school uses are ceded. However, of the 254 public schools in Hawai'i, at least 79 schools sit fully or partially on public trust lands, and are therefore considered ceded. Another 42 schools sit fully or partially on lands transferred to the state via section 5(a) of the Admission Act; therefore these lands are not part of the public land trust, but are likely ceded land.

OHA maintains that the state cannot diminish the ceded lands corpus until the Native Hawaiian people's claim to ceded lands has been resolved. *See, e.g., P.L. 103-150 (1993) ("the Republic of Hawaii . . . ceded 1,800,000 acres of crown, government and public lands of the Kingdom of Hawaii, without the consent of or compensation to the Native Hawaiian people of Hawaii or their sovereign government")*.

OHA further notes that Admission Act section 5(f), Hawai'i Constitution, article XII, Chapter 10, Hawai'i Revised Statutes, Act 178, SLH (2006), and Executive Order 06-06 impose trust obligations with respect to public trust land on all state agencies. Restricting the use of revenues generated on public trust land solely for the use of public schools would violate the state's obligations.

Therefore, OHA urges the committee to HOLD HB952. Mahalo for the opportunity to testify on this important measure.



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Wil Okabe
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Karolyn Mossman
Vice President
Joan Kamila Lewis
Secretary-Treasurer
Alvin Nagasako
Executive Director

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
FINANCE**

RE: HB 952 -- RELATING TO PUBLIC SCHOOL LANDS.

March 3, 2011

**WIL OKABE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION**

Chair Oshiro and Members of the Committee:

The Hawaii State Teachers Association supports HB 952. We recognize the challenges that the legislators and the governor face to balance the budget given the mammoth deficit our state faces.

Building, repairing, and modernizing our schools' infrastructures to meet the challenges of new technology that provide quality twenty-first century learning is an exorbitant cost. This bill will help to generate the revenues to improve public school facilities and ensure infrastructures meet the needs of twenty-first century learning.

We urge the committee to support HB 952.

Thank you for the opportunity to testify.



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The Twenty-Sixth Legislature, State of Hawaii
House of Representatives
Committee on Finance
Testimony by
Hawaii Government Employees Association
March 3, 2011

HB 952 – RELATING TO PUBLIC SCHOOL LANDS

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the intent of HB 952.

As written, this bill will help to generate income to improve public school facilities and infrastructure to meet the needs of the twenty-first century and beyond, but we also recognize the potential conflict in the use of the income derived from public trust lands owned by the trust that must be address.

We appreciate the opportunity to present our testimony on this bill.

Respectfully submitted,

Leiomalama Desha
Executive Assistant



Owen Miyamoto
3209 Paty Drive
Honolulu, HI 96822-1439

March 28, 2011

Honorable Marcus R. Oshiro, Chair
Honorable Marilyn B. Lee, Vice Chair
Honorable Members of the House Committee on Finance

I am testifying in support for HB 952 Relating to Public School Lands

I am a member of the Technical Review Committee for the Hawaii 3R's Program, which provides funding for small repairs and renovations to our public schools. I am not speaking on its behalf. The Technical Review Committee examines proposals from the school. Reviewing the hundreds of submittals from public schools gives me an excellent view of the condition of buildings and grounds of our school system. Funding has been provided through Senator Inouye's efforts and each project must leverage the financial contribution with the sweat equity of volunteers.

It is clear that the 3R's program cannot possibly meet the huge backlog of repairs and upgrades needed for the school system. Further, the deficit of the federal budget makes it unlikely that the US government can be counted on continuing its support.

Although the details of how the proposed Public Schools Land Trust will operate need clarification, it represents an opportunity to capture revenues from lands that are presently underutilized. With careful planning and organizing, there are clearly locations where such an opportunity could result in needed revenues for our schools. An example is offered through the recent announcement that Liliuokalani Elementary School will be closed. The property consists of 2.7 acres of prime business land valued at \$1.3 million dollars. It has been suggested that the existing buildings be used for office space, which is probably not the most efficient use of an old structure built for classrooms. Possibly, legislation could be written to authorize a pilot program to test the concept.

I urge your favorable action to approve HB 952. Thank you for the opportunity to present my views.


Owen Miyamoto

TO: HONORABLE MARCUS OSHIRO, CHAIR Finance Committee
HONORABLE MARILYN B. LEE, VICE-CHAIR

RE: Testimony in STRONG SUPPORT of HB 952

Aloha Chair Oshiro, Vice Chair Lee and committee members:

Thank you for this opportunity to submit testimony in STRONG SUPPORT of HB 952.

As you are aware, this bill puts forth an exciting concept to create a funding source to bring our schools up to the standards of the 21st century. All of you know that in this competitive new age of technology, our children and young adults will compete for jobs with their counterparts from Canton Ohio, to Canton China. We MUST provide them with the skills and education to meet the challenges of the 21st century.

This bill calls for the development of underutilized school lands and the funds generated therefrom are designated for use to help build, repair, and retrofit our public schools to meet the challenges of the 21st century. Schools in newly developed communities have the good fortune of being designed to be energy efficient, and to be wired with the latest in broadband technology. ALL schools should have the capacity to partake in the latest technology. But this is only the first step. The second is the need for a continued and dedicated source of funding for our schools. We have long spoken about the need to dedicate funds for public education. Without such a source our schools fall father behind and our kids pay the ultimate penalty – less than superior and critical 21st century education. The situation is exacerbated by the demands of the fast moving tech world - standing still means falling behind.

Our parents and grandparents understood that education was the key if their children and grandchildren were to have any future. They made sacrifices and did not fail us. We cannot and must not be the first generation to fail our children and young adults.

I know that all of you share a strong and abiding commitment to provide the best education possible for our young people. You have before you a proposal that will provide our state with the possibility of meeting that commitment. I hope and respectfully ask that you pass out this bill.

Mahalo,

RANDY IWASE