

SB458

Relating to the State
Educational Facilities
Improvements Special
Fund
EDU, WAM



STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 01/28/2013

Committee: Senate Education

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Bill: SB 0458 RELATING TO THE STATE EDUCATIONAL FACILITIES IMPROVEMENT SPECIAL FUND.

Purpose of Bill: Removes the requirement that general excise tax revenues be deposited to the credit of the state educational facilities improvement special fund. Limits expenditures from the special fund to projects authorized by the legislature for fiscal years ending prior to 07/01/2014. Limits lease payments required by financing agreements paid from the special fund to those entered into prior to 07/01/2013. Repeals the special fund on 07/01/2023.

Department's Position:

The Department is **opposed** to this bill.

This bill proposes to repeal the State Educational Facilities Improvement Special Fund authorized by §36-32, HRS.

Per Act 368, SLH 1989, the impetus for the establishment of the State Education Facilities Improvement (SEFI) Special Fund was that the legislature had found that, "the quality of public education in the State is related to the condition of public school facilities. The physical facilities used by the department of education for public instruction require extraordinary amounts of funds for capital improvements and repairs to improve their condition."

Since 1989 the State Educational Facilities Improvement (SEFI) Special Fund has been used to fund school facility development and improvement projects appropriated by the Legislature and allocated by the Governor. The Legislature has demonstrated its commitment to improving public school facilities by originally committing no less than \$90 million (later reduced to \$45 million by Act 110, SLH 1999) of general excise tax revenues or general obligation bond proceeds to the fund. While the source of funds was initially general excise tax revenues, for many years now only general obligation bond funds have been deposited.

In 1996 both the Legislature and voting public reaffirmed their support of the use of this fund to improve school facilities by inserting into Article VII, Section 11 of the State Constitution the amendment, "appropriations from the state educational facilities improvement special fund may be made for periods exceeding three years to allow for construction or acquisition of public school facilities."

This fund has: demonstrated an extraordinary level of State commitment to finance school improvement projects that in turn support the Department's long-range planning efforts; reduced risk of project funds lapsing due to delays that may be outside of the control of the Department; and, afforded greater flexibility in maximizing the use of appropriated funds via the SEFI project adjustment fund.

The Department asks that these commitments to support school facility development and improvement be maintained by retaining Section 36-32, Hawaii Revised Statutes.

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 SENATE COMMITTEE ON EDUCATION
ON
SENATE BILL NO. 458

January 28, 2013

RELATING TO THE STATE EDUCATIONAL FACILITIES IMPROVEMENT SPECIAL FUND

Senate Bill No. 458 repeals the State Educational Facilities Improvement Special Fund (SEFI) and provides that any funds remaining in the SEFI shall lapse to the general fund on July 1, 2023. Additionally, Senate Bill No. 458 proposes to remove the requirement that general excise tax revenues be deposited into the SEFI and limits expenditures from the SEFI to projects authorized by the Legislature for fiscal years ending prior to July 1, 2014.

The Department of Budget and Finance supports this bill. We recognize there are operational advantages for the Department of Education to maintain the SEFI, but the department takes the position that the original intent and financial benefit of the SEFI no longer exists.

Act 368, SLH 1989, established the SEFI and provided \$90 million in general excise tax revenues each year from 1989 to 1995 to be deposited to the credit of the SEFI. Act 364, SLH 1993, subsequently allowed the SEFI to be funded with proceeds from the sale of general obligation bond funds in lieu of general excise tax receipts. Act 110, SLH 1999, reduced the amount to be deposited into the SEFI from \$90 million per fiscal year to \$45 million per fiscal year.

Over the years, capital improvement projects appropriated for education facilities have generally been authorized and funded with SEFI funds, which are then 100% capitalized through the issuance of general obligation bonds. We recognize the need to address the maintenance and upgrades of educational facilities; however, given the economic condition of the State and concerns on national funding support levels, we must address our school funding requirements within available funding resources. Thus, capital improvement project requests by departments should be reviewed on a statewide basis and allocated to programs based on statewide priorities.

As the general excise tax revenues are no longer used to fund State educational facilities improvements, and the Department of Education's capital improvement project requests are supported 100% with general obligation bonds, the Department of Education's capital improvement projects should be funded directly with general obligation bonds rather than through the SEFI. The SEFI is no longer necessary and should be repealed.

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SUBJECT: GENERAL EXCISE, Repeal disposition to state educational facilities improvement special fund

BILL NUMBER: SB 458

INTRODUCED BY: Ige, Baker, Espero, Keith-Agaran, Kidani, Tokuda and 6 Democrats

BRIEF SUMMARY: Amends HRS section 237-31 to repeal the transfer of general excise tax revenues to the state educational facilities improvement special fund. Expenditures from the special fund shall be limited to projects authorized by the legislature for fiscal years ending prior to July 1, 2014. Also provides that lease payments required by financing agreements paid from the special fund shall only be made on those entered into prior to July 1, 2013.

Repeals HRS section 36-32 to repeal the state educational facilities improvement special fund on July 1, 2023. Any remaining unencumbered balance in the fund shall lapse to the general obligation bond fund on July 1, 2023.

EFFECTIVE DATE: Upon approval as noted

STAFF COMMENTS: This measure proposes to repeal the transfer of general excise tax revenues to the state educational facilities improvement special fund and repeal the fund itself on July 1, 2023.

The earmarking provisions of this law were established nearly 25 years ago when the state general fund was flush with cash surpluses. While the rationale was to secure dedicated funding for educational facilities, the real intent for this provision was to hide those surplus funds from public scrutiny, creating the illusion that there was no surplus as well as circumventing the constitutional ceiling on general fund expenditures as \$90 million in general excise tax revenues were deposited directly into this special fund and did not pass through the general fund.

The 1989 Tax Review Commission noted that use of this type of special fund financing is a “departure from Hawaii’s sound fiscal policies and should be avoided.” It also noted that special funds are appropriate where the revenues to the funds maintain some direct connection between a public service and the beneficiary of that service. The Commission found that special funds which merely set aside general funds cannot be justified as such actions restrict budget flexibility, create inefficiencies, and lessen accountability. It recommended that such programs can be given priority under the normal budget process without having to resort to this type of financing.

Seconding the Commission’s harsh criticism was the State Auditor’s report issued in February of 1991 that recognized that the “tax is levied on the general public rather than specific beneficiaries of the program,” and thus the fund did not reflect a “direct link between user benefits and user charges.” The Auditor recommended that this particular fund be repealed and that educational facilities should be

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funded through the normal capital improvements appropriations process - which this measure proposes to achieve.

Thus, this measure begins to phase out and ultimately repeal the educational facilities special fund and provisions which had earmarked general excise tax revenues and subsequently general obligation bond proceeds for the school facilities maintenance program. The bill specifies that moneys in this special fund may only be used for projects authorized by legislation before the end of the fiscal year 2014 and can only be used for leasing financing agreements entered into before the end of the current fiscal year. The special fund is then repealed on July 1 of the year 2023. This should return accountability to the legislature for the financing of school repairs and maintenance.

Digested 1/25/13