

JAN 24 2013

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# A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

1           SECTION 1. The legislature finds that article X, section  
2 1, of the Hawaii State Constitution states, in relevant part,  
3 that "[t]he State shall provide for the establishment, support  
4 and control of a statewide system of public schools . . .  
5 including physical facilities therefor." The legislature  
6 further finds that this provision of the Hawaii State  
7 Constitution imposes an obligation on the State to provide  
8 funding for public charter school facilities.

9           Department of education schools that convert to charter  
10 schools have pre-existing facilities and remain on the  
11 department of education's regular repair and maintenance and  
12 capital improvement schedules.

13           Hawaii 3R's, a Hawaii nonprofit organization, brings  
14 outside financing and human resources together to tackle the  
15 repair and maintenance backlog in Hawaii's public schools.  
16 Currently, all of Hawaii 3R's public school repair and  
17 maintenance projects must be selected from the department of  
18 accounting and general services' unfunded repair and maintenance



1 backlog list, which includes conversion charter schools. Start-  
2 up charter schools however, receive no such support and have  
3 historically received legislative appropriations for facilities  
4 assistance on an ad hoc basis.

5 The purpose of this Act is to support the funding of public  
6 charter school facilities by creating a program similar to the  
7 Hawaii 3R's school repair and maintenance program by  
8 establishing the Hawaii public charter school facilities fund in  
9 order to support start-up charter schools, conversion charter  
10 schools, not-for-profit corporations that support charter  
11 schools, and community development institutions that support  
12 charter schools. This program differs from the Hawaii 3R's  
13 school repair and maintenance program in that it would:

14 (1) Be expanded to include acquisition, pre-development,  
15 rehabilitation, construction, and other capital  
16 improvement projects, in addition to repair and  
17 maintenance; and

18 (2) Accommodate more complex capital improvement projects.

19 SECTION 2. Chapter 302D, Hawaii Revised Statutes, is  
20 amended by adding a new section to be appropriately designated  
21 and to read as follows:



1           "§302D- Hawaii public charter school facilities special  
2 fund. (a) There is established within the state treasury a  
3 special fund to be known as the Hawaii public charter school  
4 facilities special fund, hereinafter referred to as the "special  
5 fund", into which shall be deposited:

- 6           (1) Appropriations by the legislature to the special fund;  
7           (2) Contributions, grants, endowments, gifts in cash or  
8           otherwise, loans, and the proceeds from bond financing  
9           from all sources, including corporations or other  
10           businesses, foundations, government entities,  
11           individuals, and any other interested parties; and  
12           (3) Income and capital gains earned by the special fund.

13           (b) The special fund shall be administered by the  
14 commission, and the moneys in the special fund shall be used  
15 only for the purposes specified in subsection (c).

16           (c) The commission shall expend moneys in the special fund  
17 in the form of grants, loans, or contracts to charter schools,  
18 not-for-profit corporations that support charter schools, and  
19 private vendors for the repair, maintenance, acquisition,  
20 predevelopment, rehabilitation, construction, or other capital  
21 improvement projects for charter school facilities or facilities  
22 administered, operated, or developed by not-for-profit



1 corporations that support public charter schools. The  
2 commission may give priority to projects that exhibit best  
3 practices in green building or sustainable construction,  
4 rehabilitation, repair, and maintenance.

5 (d) There is established the Hawaii public charter school  
6 facilities fund advisory board, which shall be placed in the  
7 commission for administrative purposes. The advisory board  
8 shall consist of the executive director of the commission, who  
9 shall serve as an ex officio, non-voting member, and six members  
10 who shall be appointed by the commission. The advisory board  
11 shall:

- 12 (1) Solicit and raise funds for the special fund;
- 13 (2) Establish criteria for the expenditure of moneys from  
14 the special fund;
- 15 (3) Review grant and loan proposals;
- 16 (4) Make recommendations for grants, loans, and other  
17 specific expenditures; and
- 18 (5) Engage in any other activities necessary to support  
19 the prudent and efficient use of moneys from the  
20 special fund.

21 (e) In managing the special fund, the commission shall  
22 exercise ordinary business care and prudence given the facts and



1 circumstances prevailing at the time of each action or decision.  
2 The commission shall also consider the special fund's long- and  
3 short-term needs in carrying out its purposes, its present and  
4 anticipated financial requirements, the total return on its  
5 investments, price trends, and general economic conditions.

6 (f) The legislature may restrict the use of moneys that  
7 the legislature appropriates to the special fund.

8 (g) Any organization submitting a proposal to the  
9 commission for use of moneys in the special fund on behalf of a  
10 charter school shall:

11 (1) Be a for-profit organization duly registered under the  
12 laws of the State, a not-for-profit organization under  
13 section 501(c)(3) of the Internal Revenue Code or a  
14 state or county agency;

15 (2) Have experience with the project or program area for  
16 which the proposal is being made; and

17 (3) Be licensed and accredited, as applicable, in  
18 accordance with the requirements of federal, state, or  
19 county government.

20 (h) Any organization to which moneys from the special fund  
21 are awarded shall agree to the following conditions prior to  
22 receiving the award:



- 1        (1) Use only persons qualified to engage in the activity  
2            to be funded;
- 3        (2) Comply with all applicable federal, state, and county  
4            laws; and
- 5        (3) Comply with any other requirements prescribed by the  
6            commission to ensure adherence by the recipient of the  
7            award with applicable federal, state, and county laws  
8            and with the purposes of this section.

9        (i) Chapter 42F or 103D shall not apply to organizations  
10       or agencies that apply for grants or contracts under this  
11       section; provided that the commission shall be held accountable  
12       for the use of the funds.

13       (j) The special fund shall be audited annually by an  
14       independent auditor. The results of each annual audit shall be  
15       submitted to the department of budget and finance no later than  
16       thirty days from the date the commission receives the audit  
17       results. The commission shall retain the results of the audit  
18       for a period of three years and permit the department of budget  
19       and finance, state legislators, and the legislative auditor, or  
20       their duly authorized representatives, to inspect and have  
21       access to any documents, papers, books, records, and other  
22       evidence pertinent to the special fund.



1        (k) The special fund may receive matching funds from  
2 private, federal, or county sources; provided that this matching  
3 value may include:

4        (1) The fair market value of contributions of in-kind  
5 goods and services;

6        (2) Federal funding intended for charter schools that  
7 passes through the department as the designated state  
8 education agency or local education agency; and

9        (3) Federal funding that passes through any agency, board,  
10 panel, or other subdivision of the State for the  
11 benefit of charter schools.

12        (1) The commission shall submit an annual report on the  
13 special fund to the legislature no later than twenty days prior  
14 to the convening of each regular session."

15        SECTION 3. There is appropriated out of the general  
16 revenues of the State of Hawaii the sum of \$10,000,000 or so  
17 much thereof as may be necessary for fiscal year 2013-2014 and  
18 the same sum or so much thereof as may be necessary for fiscal  
19 year 2014-2015 to be deposited into the Hawaii public charter  
20 school facilities special fund established by section 2 of this  
21 Act.



# S.B. NO. 952

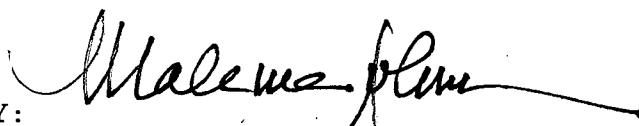
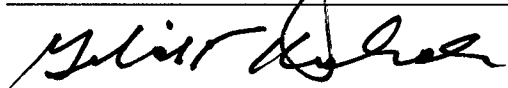
1           The sums appropriated shall be expended by the department  
2 of education for the purposes of this Act.

3           SECTION 4. New statutory material is underscored.

4           SECTION 5. This Act shall take effect upon its approval;  
5 provided that section 3 shall take effect on July 1, 2013.

6

INTRODUCED BY:





# S.B. NO. 952

**Report Title:**

Charter Schools; Facilities Funding; Appropriation

**Description:**

Establishes the Hawaii charter school facilities special fund for funding the repair, maintenance, and other facilities needs of charter schools. Establishes the Hawaii charter school facilities special fund advisory board to, among other things, establish criteria for expenditures from the special fund. Makes an appropriation to the special fund.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

