



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

GOV. MSG. NO. 1320

July 12, 2017

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Ninth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

Re: HB116 HD1 SD1 CD1

HB116 HD1 SD1 CD1, entitled "A BILL FOR AN ACT RELATING TO PUBLIC SCHOOLS" will become law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to require the City and County of Honolulu to transfer the fee simple interest of parcels on which fourteen Department of Education schools sit to the Department of Land and Natural Resources. It also extends the 21st century schools pilot program by an additional five years.

The bill provides that the property boundaries of the conveyed land are to be determined pursuant to "subsection (d)." No provision in the bill, however, including subsection (d), concerns property boundaries. The lack of a mechanism for determining the boundaries of the conveyed properties, as required by the bill, is a material legal defect at the heart of the legislation.

There is insufficient information about the properties at issue to perform a full analysis of the legal implications of the bill. The bill releases, waives, and extinguishes all claims and liabilities that the Department of Land and Natural Resources has, may have had, or may have in the future against the City and County of Honolulu concerning

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the physical, environmental, soil, economic, and legal conditions of the conveyed properties. Even though the Department of Education has been operating schools on these properties, it is imprudent to acquire substantial property and extinguish unknown potential liabilities without ordinary due diligence.

The bill does not provide the Department of the Attorney General with any role in the conveyance of the properties. According to section 107-10, Hawaii Revised Statutes, "No real property or any right, title, or interest therein shall be acquired by agreement, purchase, gift, devise, eminent domain, or otherwise, for any purpose, by the State or any department . . . without the prior approval of the attorney general as to form, exceptions, and reservations." The bill states that the City and County of Honolulu shall prepare, execute, and record quitclaim deeds for the properties without providing a role for any state entity in this process, including the Department of the Attorney General.

For the foregoing reasons, HB116 HD1 SD1 CD1 will become law as Act 206, Session Laws of Hawaii 2017, effective July 12, 2017, without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read "David Y. Ige". The signature is fluid and cursive, with a large loop at the end.

DAVID Y. IGE
Governor, State of Hawaii

A BILL FOR AN ACT

RELATING TO PUBLIC SCHOOLS.

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

1 **PART I**

2 SECTION 1. The legislature finds that Act 97, Session Laws
3 of Hawaii 1965, transferred the responsibility for functions
4 that were deemed to be of statewide concern from the counties to
5 the State. Among these functions were the planning,
6 construction, improvement, and maintenance of public school
7 facilities and grounds. Since public school facilities and
8 grounds are the responsibility of the State, it is reasonable to
9 continue transferring remaining county lands to the State;
10 provided that the transfer of those lands does not include any
11 property designated as a public park.

12 The purpose of this Act is to:

- 13 (1) Transfer parcels of property containing schools
14 operated by the department of education that are
15 currently owned by the city and county of Honolulu to
16 the State; and



1 (2) Extend the twenty-first century schools pilot program
2 established by Act 155, Session Laws of Hawaii 2013,
3 for an additional five years.

4 PART II

5 SECTION 2. (a) Notwithstanding any other law to the
6 contrary, the fee simple interest to the following parcels of
7 land with the existing improvements thereon (hereinafter "the
8 properties") (but not including submerged land, accreted land,
9 or any land makai of the shoreline), shall be conveyed by the
10 city and county of Honolulu to the department of land and
11 natural resources as grantee, as is, where is:

- 12 (1) TMK 1-4-5-34-14 (Castle High);
- 13 (2) TMKs 1-5-6-6-9, 1-5-6-6-10, and 1-5-6-6-25 (Kahuku
14 High and Elementary);
- 15 (3) TMK 1-4-4-34-24 (Kalaheo High);
- 16 (4) TMK 1-9-1-1-2 (portion) (Campbell High);
- 17 (5) TMK 1-8-5-15-1 (Waianae High);
- 18 (6) TMK 1-9-4-8-20 (Waipahu High);
- 19 (7) TMK 1-9-8-31-17 (Aiea High);
- 20 (8) TMK 1-7-4-18-1 (Leilehua High);
- 21 (9) TMK 1-9-9-2-23 (Radford High);



- 1 (10) TMK 1-6-7-2-10 (Waialua High and Intermediate);
2 (11) TMKs 1-6-003-048, 1-6-021-005 (Farrington High);
3 (12) TMK 2-7-024-001 (Kaimuki High);
4 (13) TMK 3-9-005-027 (Kaiser High); and
5 (14) TMK 3-5-020-004 (Kalani High).

6 (b) The city and county of Honolulu shall prepare,
7 execute, and record, in the land court or bureau of conveyances,
8 as appropriate, a quitclaim deed to convey each above-listed
9 parcel with all existing improvements, subject to the property
10 boundaries determined pursuant to subsection (d), to the
11 department of land and natural resources, as grantee. As these
12 are conveyances in which the city and county of Honolulu and the
13 State and its agencies are the only parties, the tax imposed by
14 section 247-1, Hawaii Revised Statutes, shall not apply to them.
15 Effective on the date of transfer pursuant to subsection (e),
16 every reference to the present titleholder or the head of the
17 department or agency in each instrument, if the titleholder is a
18 department or an agency, shall be construed as a reference to
19 the department of land and natural resources.

20 (c) The department of land and natural resources shall
21 accept the properties in their existing condition. All claims



1 and liabilities against the city and county of Honolulu, if any,
2 which the department of land and natural resources has, may have
3 had, or may have in the future, regarding any injury, loss,
4 cost, damage, or liability, including reasonable attorney's
5 fees, concerning the physical, environmental, soil, economic,
6 and legal conditions of the conveyed properties, are released,
7 waived, and extinguished.

8 (d) Transfer of parcels shall be effective December 31,
9 2018.

10 SECTION 3. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$100,000 or so much
12 thereof as may be necessary for fiscal year 2017-2018 and the
13 same sum or so much thereof as may be necessary for fiscal year
14 2018-2019 as a grant-in-aid to the city and county of Honolulu
15 to prepare, execute, and record the quitclaim deeds required
16 under this Act, including costs outside of normal business.

17 The sums appropriated shall be expended by the city and
18 county of Honolulu for the purposes of this Act.

19 **PART III**

20 SECTION 4. Section 302A-1151.1, Hawaii Revised Statutes,
21 is amended by amending subsection (e) to read as follows:



HB No. 116, HD 1, SD 1, CD 1


THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2017
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2017.



Joseph M. Souki
Speaker
House of Representatives




Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2017
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the
Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2017.


President of the Senate


Clerk of the Senate