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# A BILL FOR AN ACT

RELATING TO PUBLIC 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, affiliates of the  
13          Friends of the Library of Hawaii, and any tax-exempt  
14          nonprofit organization recognized under section  
15          501(c)(3) of the Internal Revenue Code whose primary  
16          purpose is to support a state library branch for the  
17          purpose of obtaining the use of the books and property



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



1           (7) Expend the moneys in the special fund in accordance  
2                   with the terms and conditions of each donation for the  
3                   purposes of the libraries.

4 The board shall be the trustee of the special fund and all  
5 moneys therein shall be deemed to have been appropriated to the  
6 use and for the purposes of the Hawaii state public library  
7 system in providing library services. Nothing in this section  
8 shall be construed to limit the powers and duties of the board  
9 hereinbefore expressed, or to empower the board to obligate the  
10 State financially in any sum which shall not have been  
11 appropriated by the legislature for the use of the board."

12           SECTION 2. Section 312-3.5, Hawaii Revised Statutes, is  
13 amended to read as follows:

14           "**§312-3.5 Detention of [~~books and other~~] public library**  
15 **materials; penalty.** A person who detains [~~a book, newspaper,~~  
16 ~~plate, picture, photograph, engraving, painting, drawing, map,~~  
17 ~~magazine, document, letter, government record, microform, sound~~  
18 ~~recording, audio visual materials in any format, magnetic or~~  
19 ~~other tapes, artifacts, or other documentary (written or~~  
20 ~~printed)] any public library materials belonging to any  
21 community, school, or public library [~~or similar institution~~~~



1 ~~controlled by the State]~~ for one day after the due date of the  
2 public library materials, shall be subject to a nominal charge  
3 established by the board of education.

4 A person detaining [~~such books or~~] public library materials  
5 thirty days or more after the due date of such materials shall  
6 be subject to a charge commensurate with the replacement value  
7 of the [~~books or~~] public library materials."

8 SECTION 3. Section 312-3.7, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "§312-3.7 [~~Hawaii state library foundation trust]~~ Friends  
11 of the library of Hawaii program fund. (a) There is  
12 established as a separate fund of the [~~Hawaii state library~~  
13 ~~foundation,~~] friends of the library of Hawaii, a Hawaii  
14 nonprofit corporation, the [~~Hawaii state library foundation~~  
15 ~~trust]~~ friends of the library of Hawaii program fund. All funds  
16 contributed to the trust fund, including income and capital  
17 gains earned therefrom, shall be used exclusively for state  
18 library programs as defined in the articles, bylaws,  
19 resolutions, and other instruments executed on behalf of the  
20 [~~Hawaii state library foundation]~~ friends of the library of  
21 Hawaii or by the state librarian. The [~~trust~~] fund may receive



1 any and all types of private contributions, and the income and  
2 capital gains earned by the fund; provided that funds or  
3 properties donated for library use and patrons' deposits shall  
4 be deposited and accounted for in accordance with rules adopted  
5 by the comptroller. The [~~trust~~] fund shall be subject to the  
6 following restrictions:

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

10 (2) Other restrictions imposed by the legislature with  
11 respect to the transfer or appropriation of funds.

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

20 (c) If the [~~trust~~] fund is terminated or the [~~Hawaii state~~  
21 ~~library foundation,~~] friends of the library of Hawaii is



1 dissolved, all funds, including the income and capital gains  
2 earned by the investment of funds, shall be distributed in  
3 accordance with the articles and bylaws of the [~~Hawaii state~~  
4 ~~library foundation.~~] friends of the library of Hawaii.

5 (d) The [~~Hawaii state library foundation~~] friends of the  
6 library of Hawaii shall require an annual audit of the [~~trust~~]  
7 fund, the results of which shall be submitted to the board of  
8 education and the legislature not more than thirty days after  
9 receipt by the [~~foundation.~~] friends of the library of Hawaii.

10 The [~~foundation~~] friends of the library of Hawaii shall retain  
11 for a period of three years, any documents, papers, books,  
12 records, and other evidence that is pertinent to the [~~trust~~]  
13 fund, and permit inspection or access thereto by the board of  
14 education, the state librarian, the department of accounting and  
15 general services, state legislators, and the state auditor, or  
16 their duly authorized representatives.

17 (e) The purpose of this section is to create by statute a  
18 private charitable [~~trust~~] fund to financially support state  
19 library programs. The [~~trust~~] fund shall be subject to the  
20 terms and conditions provided in this section. The [~~trust~~] fund  
21 shall not be placed in the state treasury and the State shall



1 not administer the fund nor be liable for its operation or  
2 solvency. The fund shall be a private charitable [~~trust fund~~  
3 ~~administered by a private trust company as trustee.~~] account in  
4 a federally insured financial institution with such account  
5 being held in the name of the friends of the library of Hawaii."

6 SECTION 4. Section 312-3.8, Hawaii Revised Statutes, is  
7 amended by amending subsection (b) to read as follows:

8 "(b) Notwithstanding any law to the contrary, all net  
9 proceeds received by the Friends of the Library of Hawaii from  
10 the operation of any concession, vending machine, or other  
11 activity through a state-wide contract within, or on the grounds  
12 of, any state library facility shall be deposited into the  
13 [~~Friends~~] friends of the [~~Library~~] library of Hawaii [~~trust~~]  
14 program fund. All funds deposited into the [~~trust~~] program  
15 fund, including income and capital gains earned therefrom, shall  
16 be used exclusively for state library programs."

17 SECTION 5. Section 312-21, Hawaii Revised Statutes, is  
18 amended by amending subsections (a) and (b) to read as follows:

19 "(a) The state librarian shall:

20 (1) Provide for the establishment and ongoing operation of  
21 a fee for enhanced [~~service~~] services program, which



1 includes but is not limited to the planning,  
2 programming, and budgeting of operating, research and  
3 development, and capital investment programs; and  
4 (2) Administer a special fund to be known as the "library  
5 fee for enhanced services special fund".

6 (b) Notwithstanding [~~sections~~] section 312-3.6 [~~and 312-~~  
7 4], all moneys collected through the fee for enhanced services  
8 program shall be deposited into the library fee for enhanced  
9 services special fund established under section 312-22."

10 SECTION 6. Section 312-22, Hawaii Revised Statutes, is  
11 amended by amending subsections (b) and (c) to read as follows:

12 "(b) The special fund shall be administered by the state  
13 librarian who [~~, after consultation with the library advisory~~  
14 ~~committee,~~] shall determine the annual amount that each public  
15 library shall receive. Allocations shall be based on the  
16 balance in the special fund on the first day of each fiscal year  
17 and made in quarterly installments not more than thirty days  
18 after the close of each fiscal quarter.

19 (c) Moneys allocated from the special fund shall be used  
20 by each community, school, or public library to operate its fee  
21 for enhanced services program. Each library shall post in a





1 conspicuous place a list of expenditures made by the library  
2 from the special fund during the preceding fiscal quarter."

3 SECTION 7. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 8. This Act shall take effect on July 1, 2050.



**Report Title:**

Hawaii State Public Library System; Friends of the Library of Hawaii

**Description:**

Makes miscellaneous technical amendments to facilitate library operations. Changes references to the Hawaii State Library Foundation to the Friends of the Library of Hawaii. Clarifies the functions of the friends of the library of Hawaii program fund. Takes effect 7/1/2050. (SD1)

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

