



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

**Date:** 02/22/2018  
**Time:** 12:30 PM  
**Location:** 308  
**Committee:** House Finance

**Department:** Education

**Person Testifying:** Dr. Christina M. Kishimoto, Superintendent of Education

**Title of Bill:** HB 2679, HD1 RELATING THE TRANSFER OF LANDS.

**Purpose of Bill:** Transfers fee interest in certain public school lands from City and County of Honolulu and the Department of Land and Natural Resources, as applicable, to the Department of Education. (HB2679 HD1)

**Department's Position:**

The Hawaii State Department of Education (HIDOE) supports HB 2679, HD1. HIDOE was provided the authority to develop its assets to create twenty-first century schools through Act 155, Sessions Law of Hawaii 2013. In our efforts to move projects forward for development, we regularly face the issue of land ownership.

Thank you for this opportunity to present HIDOE testimony on HB 2679, HD1.

The Hawaii State Department of Education seeks to advance the goals of the Strategic Plan which is focused on student success, staff success, and successful systems of support. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at [www.hawaiipublicschools.org](http://www.hawaiipublicschools.org).

DAVID Y. IGE  
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the House Committee on  
FINANCE**

**Thursday, February 22, 2018  
12:30 PM  
State Capitol, Conference Room 308**

**In consideration of  
HOUSE BILL 2679, HOUSE DRAFT 1  
RELATING TO PUBLIC SCHOOLS**

House Bill 2679, House Draft 1 proposes to transfer certain public school lands from the City and County of Honolulu (City) and the Department of Land and Natural Resources (Department), as applicable, to the Department of Education (DOE). **The Department offers the following comments and concerns.**

The Department opposes the inclusion of the automatic reversionary interest as described in SECTION 3 of this bill. First, at the end of the useful life of the school and income generating project contemplated by the bill, the structures will likely be in a dilapidated condition and possibly contaminated with hazardous materials. Therefore, at the least, DOE ought to be required to remove at its sole cost all improvements and restore the land to its original condition prior to any return to the Department or the City. Secondly, given that the measure includes revenue generation as part of “public educational purposes”, the Department presumes that if the lands conveyed cease to be used for public educational purposes it would mean that the land has minimal or no revenue generation potential either. If this is the case, the land may also have little or no income generating potential for the Department and may end up only resulting in a maintenance and financial burden. In any event, DOE ought to be required to remove at its sole cost all improvements and restore the land to its original condition prior to its return.

Finally, the Department notes that the Committees on Education and Water & Land may have intended to restrict alienation of the land and building to government entities. SECTION 2 of the bill, the proposed section 302A-, subsection (c) in fact prohibits DOE from selling, exchanging transferring assigning or pledging any real or personal property to any entity other than a government entity. However, subsections (a) and (b) of that same section authorizes the sale, exchange, transfer or conveyance of real and personal property without restriction. As such, these inconsistent provisions may have been an oversight in drafting.

Thank you for the opportunity to comment on this measure.

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**ROBERT K. MASUDA**  
FIRST DEPUTY

**JEFFREY. T. PEARSON, P.E.**  
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



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-NINTH LEGISLATURE, 2018**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 2679, H.D. 1, RELATING THE TRANSFER OF LANDS.

**BEFORE THE:**

HOUSE COMMITTEE ON FINANCE

**DATE:** Thursday, February 22, 2018      **TIME:** 12:30 p.m.

**LOCATION:** State Capitol, Room 308

**TESTIFIER(S):** Russell A. Suzuki, First Deputy Attorney General, or  
Melissa J. Kolonie, Deputy Attorney General, or  
Anne T. Horiuchi, Deputy Attorney General, or  
David D. Day, Deputy Attorney General

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Chair Luke and Members of the Committee:

The Department of the Attorney General ("Department") provides the following comments.

The purposes of this bill are to require the City and County of Honolulu and the Department of Land and Natural Resources, as applicable, to convey land upon which 58 public schools sit, with existing improvements, to the Department of Education, and to give the Department of Education the authority to own the real property on which its educational facilities are located.

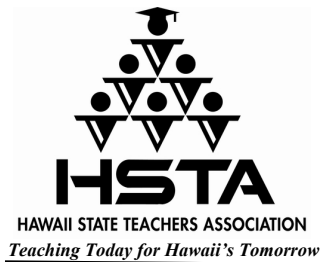
The Department believes that it lacks sufficient information regarding the 58 properties at issue to perform a full analysis of the legal implications of the bill. For instance, how the City and County of Honolulu or Department of Land and Natural Resources came to own each individual parcel or the potential existence of pollutants on site could have broad legal consequences.

Therefore, we respectfully suggest that a concurrent resolution be offered to direct an appropriate agency to conduct a study into land owned by the City and County of Honolulu or Department of Land and Natural Resources that is currently used for public schools. To the extent the agency would require money to conduct the study, a bill with an appropriation would be required.

The Department further notes that the bill as drafted does not indicate what type of legal instruments will be prepared to convey the parcels to the Department of Education, what entity or entities will be responsible for preparing those legal instruments, or whether those legal instruments will be subject to review or approval by the Department of the Attorney General, as required by sections 107-10 and 26-7, Hawaii Revised Statutes.

Finally, we note that the bill could be subject to challenge as violative of article VIII, section 5, of the Hawai'i Constitution, which provides: "If any new program or increase in the level of service under an existing program shall be mandated to any of the political subdivisions by the legislature, it shall provide that the State share in the cost." To the extent the bill may be interpreted as directing the City and County of Honolulu to prepare legal instruments conveying certain parcels to the Department of Education, the bill does not appropriate any funds for this mandate.

Thank you for the opportunity to provide these comments.



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TESTIMONY BEFORE THE HOUSE COMMITTEES ON  
FINANCE

RE: HB 2679, HD 1 - RELATING TO THE TRANSFER OF LANDS

THURSDAY, FEBRUARY 22, 2018

COREY ROSENLEE, PRESIDENT  
HAWAII STATE TEACHERS ASSOCIATION

Chair Luke and Members of the Committee:

The Hawaii State Teachers Association **supports HB 2679, HD 1**, relating to the transfer of lands.

Our state's public school buildings are approximately 65-years-old on average. Facilities are damaged, restrooms and water foundations are in disrepair, classroom windows are broken, and campuses are plagued by rat and insect infestations. Our students, especially those with special needs, are subjected to dilapidated infrastructure. Though our state's repair and maintenance backlog has declined, the total cost of lingering projects runs into the hundreds of millions of dollars. Maintenance and capacity problems are particularly painful for developing communities, like the 'Ewa Plain, which will welcome 28,000 more buildings by the year 2021, and Kaka'ako, in which 39,000 new multi-family units are projected to be built within an approximately half-mile radius of rail transit stations, per the Honolulu Community Development Authority.

Last year, lawmakers passed Act 206, which required the City and County of Honolulu to transfer to the Hawai'i State Department of Land and Natural Resources all property upon which public high schools located on O'ahu are situated, while concurrently extending the state's 21st Century schools pilot program by an additional five years. Act 206 did not fully transfer all land on which public schools in Honolulu sit to DLNR, however, precluding the Hawai'i State Department of Education from exercising full control of its O'ahu campuses, for which the state nonetheless carries operational and maintenance responsibility.

For the 21<sup>st</sup> Century schools initiative imagined by Act 155 of 2013 to succeed, the DOE must have complete control of public school lands and facilities. Split ownership of these lands hampers redevelopment and impedes the department's ability to maximize the value of its real estate assets. Public-private partnerships intended to generate revenue for the repair, maintenance, and construction of school facilities is only possible if and when the department controls all real property on which schools sit, so that the department can explore innovative ways of managing school space that provide a benefit to both the school and the surrounding community, including through the possible initiation of projects on public school lands that are funded with private capital, like workforce housing.

A quality education is priceless. To provide our children with quality school facilities, the Hawaii State Teachers Association asks your committee to **support** this bill.



## 'ĀINA HAINA COMMUNITY ASSOCIATION

c/o 'Āina Haina Library, 5246 Kalaniana'ole Highway, Honolulu, HI 96821  
ainahainaassoc@gmail.com; www.ainahaina.org

Jeanne Ohta, President • Melia Lane-Kanahele, Vice-President • Art Mori, Treasurer • Kathy Takemoto, Secretary • Directors At Large: Jeff Carlson, Wayson Chow, Patricia Moore, Marie Riley

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February 22, 2018

To: Representative Sylvia Luke, Chair  
Representative Ty Cullen, Vice Chair and  
Members of the Committee on Finance

From: Jeanne Y. Ohta, President

RE: HB 2679 HD1 Relating to Transfer of Lands  
Hearing: Thursday, February 22, 2018, 12:30 p.m., Room 308

POSITION: OPPOSED

The Board of Directors of the 'Āina Haina Community Association (AHCA) write in opposition to HB 2679 HD1 Relating to the Transfer of Lands, which transfers the land of certain public schools from the City and County of Honolulu to the State of Hawaii.

AHCA specifically opposes the new definition of "educational purpose" to include any use of the property, including revenue generation, that would benefit the department of education's mission to provide public education to students in Hawaii.

Many of the schools are located in residential neighborhoods. When they were built, they were built with the understanding that schools would be a reasonable use for land in residential neighborhoods, thus, the school properties received conditional use permits. The acceptable use is for education of the children of the neighborhood.

HB 2679 HD1 now proposes a definition of "educational use" that is overly broad, ambiguous, and would allow "revenue generation" by businesses that are not appropriate in residential neighborhoods. AHCA is opposed to commercial use of property in residential neighborhoods, especially because they lead to overcrowding and an increase in traffic and parking on streets designed for residential uses. We are also concerned about the capacity of our aging infrastructure as these schools are located in older neighborhoods.

Many school campuses have residential homes on property adjacent to the schools. This proposal would negatively impact those homes and change the nature of neighborhoods.

We ask that the committee defer this measure. Thank you for the opportunity to provide testimony in opposition.

**HB-2679-HD-1**

Submitted on: 2/21/2018 12:41:21 PM

Testimony for FIN on 2/22/2018 12:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rachel L. Kailianu	Individual	Oppose	Yes

Comments:





**LATE**

**HB2679 HD1**  
**RELATING THE TRANSFER OF LANDS**  
House Committee on Finance

February 22, 2018

12:30 PM

Room 308

The Office of Hawaiian Affairs (OHA) Committee on Beneficiary Advocacy and Empowerment will recommend that the Board of Trustees **OPPOSE** HB2679 HD1, to ensure that lands held by the Hawai'i Department of Education (DOE) remain consistently protected against alienation, notwithstanding their exemption from the definition of "public lands" in Hawai'i Revised Statutes (HRS) §171-2. OHA notes with simple amendments included below OHA's primary concern would be addressed.

OHA appreciates that the DOE may benefit from greater flexibility and autonomy over the management and disposition of lands under its control, particularly given its critical mission to educate Hawai'i's keiki. OHA understands that this measure would accordingly remove lands held by the DOE from the Board of Land and Natural Resources (BLNR) oversight and management under Chapter 171, through an amendment to the definition of "public lands" in HRS §171-2.

However, to the extent that the DOE is granted the authority to sell or convey lands, OHA urges that this measure **expressly** reaffirm the continued application of current legislative approval requirements for the sale or alienation of **any** state lands, as found in HRS § 171-64.7. This is critical to ensuring that DOE lands are treated consistently with other state lands generally removed from BLNR jurisdiction (such as lands held by the University of Hawai'i and other state entities), and thereby maintaining the ceded lands corpus. **OHA objects to the sale of "ceded" lands except in limited circumstances, and notes that the legislative approval requirements for the sale of state lands in HRS §171-64.7 were enacted to ensure a high level of accountability and transparency in any proposed alienation of the state's limited land base, as well as to protect "ceded" lands from being sold prior to the resolution of Native Hawaiians' unrelinquished claims.** Notably, the enactment of HRS § 171-64.7 was a condition precedent to the settlement agreement in the OHA v. Housing and Community Development Corporation of Hawai'i lawsuit, brought in response to the State's actions to sell and otherwise alienate ceded lands.

**Therefore, should the Committee choose to move this measure, OHA respectfully asks that a new paragraph (9) be inserted into subsection (a) of HRS §171-64.7, to read as follows:**

**"(9) Lands to which the department of education holds title."**

Although OHA recognizes that Section 2 of HB2679 HD1 limits the sale and transfer of lands by the DOE only to government entities, the protections of HRS §171-64.7 could still be circumvented if DOE-held “ceded” lands are sold or transferred to a federal government entity, or sold or transferred to a county entity that subsequently sells or transfers such lands to a private party. Under this scenario, neither transfer would be subject to HRS §171-64.7. **Again, OHA’s requested amendment would require that any and all sales or transfers of land by DOE would be subject to the same legislative approval required of other state agencies, which provides key protections for the ceded lands corpus.**

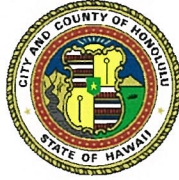
Finally, OHA notes that Act 155, Session Laws of Hawai‘i 2013, established a pilot program for the leasing of public school lands. Under this pilot program, the DOE is authorized to lease school land and facilities in accordance with the terms of HRS §302A-1151.1. **OHA respectfully recommends that Act 155 and the forthcoming results of its pilot program be examined by the Legislature, prior to any exclusion of DOE lands from the definition of “public lands.”**

Accordingly, OHA urges the Committee to **HOLD** HB2679 HD1, or to incorporate the amendment suggested above. Mahalo nui for the opportunity to provide testimony on this measure.

DEPARTMENT OF PARKS AND RECREATION  
**CITY AND COUNTY OF HONOLULU**

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KIRK CALDWELL  
MAYOR



MICHELE K. NEKOTA  
DIRECTOR

JEANNE C. ISHIKAWA  
DEPUTY DIRECTOR

February 21, 2018

THE HOUSE OF REPRESENTATIVES  
COMMITTEE ON FINANCE  
February 22, 2018 Conference Room 308

The Honorable Sylvia Luke, Chair  
The Honorable Ty J.K. Cullen, Vice Chair  
and Members of the Committee on Finance

**TESTIMONY IN OPPOSITION OF**  
**HOUSE BILL 2679 HD1: RELATING THE TRANSFER OF LANDS**

Dear Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Department of Parks and Recreation ("DPR") opposes the proposed House Bill 2679 HD1, "Relating the Transfer of Lands", which requires the City and County of Honolulu ("City") to transfer (58) parcels of land upon which a public school is situated, of which 21 are abutting public park land, to the Department of Education ("DOE").

While DPR understands DOE's need for additional facilities to fulfill their educational mission, the 21 city properties included in the HB 2679 HD1 listing were dedicated to the City for park purposes in order for DPR to fulfill its mission of providing open public space and recreational activities to the entire community in which the park is located. Transferring these properties to DOE for possible redevelopment and revenue generating options does not further the intent of these lands.

The Department of Parks and Recreation thanks the Chair and her committee for the proposed subdivision language found on page 4, line 14 of HB 2679 HD 1. However, DPR strongly believes identical language to SB 2237 SD1, is requiring the primary parties, namely the DOE and DPR, to confer and agree on the boundaries before subdividing the properties, is needed.

Like the State of Hawaii, over the years, the City and County of Honolulu has "*invested significant public funds on the maintenance and capital improvement projects*" on our park properties. An example of this is Item 32: TMK 3-2-059-002 (Kaimuki Intermediate School). The attached TMK indicates the State would claim the entire TMK, which includes the Kilauea Gymnasium, a popular city facility, which is abutting Kilauea District Park.

For these reasons, DPR cannot support HB 2679 HD1 as it will result in the loss of park facilities and fields, an insurmountable recreational impact to the children, teens, adults, families, and organizations of these communities. The impacted communities should be made aware of this impending loss of public parks and programming.

The listing below includes the tax map key numbers (TMK) for the 21 parcels listed below which include an abutting City public park.

- (8) TMK 1-9-7-93-16 (portion) 5.117 acres (Palisades Elementary) Rec Ctr/Pav, 2BB/1VB Courts, 2SB Fields, Play App;
- (9) TMKs 1-9-7-24-2 Parking Lot, 1-9-7-94-20 (Pearl City Elementary);
- (13) TMK 1-9-4-1-29 (portion) (Waipahu Intermediate) BB/VB Courts, Play App;
- (17) TMK 1-1-1-34-42 (Moanalua Elementary) NONE;
- (18) TMK 1-1-1-9-5 (portion) (Moanalua Intermediate) CS, Pool, 3BB/1VB Courts, 2 SB Fields;
- (21) TMK 1-9-8-8-7 (portion) (Waimalu Elementary) CS/Pav, BB/VB Courts, SB Field, Play App;
- (22) TMK 1-3-6-11-9 (portion) (Aina Haina Elementary) Rec Ctr, 2BB/VB/2T Courts, 2SB Fields, Play App;
- (24) TMKs 2-1-005-001 (portion) CS/Pav, 2BB/2VB/2T Courts, SB Field, Play App, 2-1-005-002, 2-1-009-001, 2-1-009-002 NONE, 2-1-009-003 (Central Intermediate) NONE;
- (27) TMK 3-9-038-001 (portion) (Hahaione Elementary) CS/Pav, 2BB/2VB Courts, SB Field, Play App;
- (28) TMKs 2-8-029-010, NONE 2-8-029-011 (Hokulani Elementary) Rec Ctr, Pool, 2BB/1VB/2T Courts, 1BB/3SB Fields, Play App;
- (30) TMKs 1-3-024-001 NONE, 1-3-024-002 (Kaewai Elementary) Gym, Pool, 2BB/2VB/3T Courts, 1BB/1SB Fields, Play App;
- (32) TMK 3-2-059-002 (Kaimuki Intermediate) Gym;
- (33) TMKs 1-5-024-029, 1-5-024-040 NONE, 1-5-024-001, 1-5-025-002 (portion) (Kalakaua Intermediate) Gym, Rec Ctr, 4BB/3VB/4T Courts, 2SB Fields, Play App;
- (35) TMKs 1-5-025-002 (portion) (Kalihi-Kai Elementary) Gym, Rec Ctr, 4BB/3VB/4T Courts, 2SB Fields, Play App, 1-5-028-075;
- (36) TMKs 1-3-035-001 (portion) 1Bb/1VB Courts, 1 SB Field, Play App, 1-3-036-079 (Kalihi-Uka Elementary) Rec Ctr (Part of School Building), 1Bb/1VB Courts, 1-3-036-015;
- (37) TMK 3-9-005-061 (Kamiloiki Elementary) Rec Ctr, 4BB/2VB Courts, SB Field, Play App;
- (39) TMKs 1-7-023-041, 1-7-023-042 (Kauluwela Elementary) NONE;
- (41) TMK 3-9-022-037 (Koko Head Elementary) CS/Pav, 2BB/2VB Courts, 2SB Field, Play App;
- (48) TMK 2-9-036-003 (portion) (Manoa Elementary) 2 Gyms, Rec Ctr, Pool, 2BB/2VB/5T Courts, 1BB/3SB Fields, Play App;
- (49) TMK 3-7-003-010 (portion) (Niu Valley Intermediate) 2T, 3-7-003-067; and

The Honorable Sylvia Luke, Chair  
The Honorable Ty J.K. Cullen, Vice Chair  
and Members of the Committee on Finance  
Page 3

(58) TMK 3-5-017-012 (portion) (Wilson Elementary) Rec Ctr, 3BB/1VB Courts, 2SB Field, Play App

*LEGEND:* CS = Comfort Station  
RC = Recreation Center  
BB = Baseball Field  
VB = Volleyball  
SB = Softball Field  
Play App = Play Apparatus  
Gym = Gymnasium  
Pool = Swimming Pool  
T = Tennis Courts  
PAV = Pavilion  
Skate = Skate Park  
BB/VB = Combo Courts  
None = City property that a school is established on; no park facilities.  
Yellow Highlight = loss of entire park land and facilities

Thank you for the opportunity to submit testimony in opposition of HB 2679 HD1.

Sincerely,



(for) Michele K. Nekota  
Director

Attachment





SB 2237, SD1 Relating to Public Schools (59) TMK 3-2—059-002 (Kaimuki Intermediate School)  
Impact: Loss of Kilauea Gymnasium, located next to Kilauea District Park