



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

Date: 02/12/2018
Time: 02:00 PM
Location: 309
Committee: House Education
House Water & Land

Department: Education

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

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

Purpose of Bill: Transfers 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.

Department's Position:

The Hawaii State Department of Education (HIDOE) supports HB 2679. As stated in the bill, 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.

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.

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 Committees on
EDUCATION
and
WATER & LAND**

**Monday, February 12, 2018
2:00 PM
State Capitol, Conference Room 309**

**In consideration of
HOUSE BILL 2679
RELATING TO PUBLIC SCHOOLS**

House Bill 2679 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.**

A cursory review of ownership records indicates that the State holds title to Tax Map Key (1) 3-4-004:0049, Anuenue Elementary. The measure would transfer only a portion of the parcel to DOE, possibly triggering a subdivision requirement. The Department expects DOE to assume responsibility for the subdivision costs of that parcel, as well as any other costs related to the acquisition of all the parcels, for such items as any due diligence, planning and document preparation. As this measure would allow DOE to generate revenue from the transferred parcels as part of "public educational purposes", they would be the only party to financially benefit from this measure.

Additionally, 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 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

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

maintenance and financial burden. In any event, DOE ought to be required to remove all improvements and restore the land to its original condition prior to its return.

Thank you for the opportunity to comment on this measure.



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

ON THE FOLLOWING MEASURE:

H.B. NO. 2679, RELATING TO TRANSFER OF LANDS.

BEFORE THE:

HOUSE COMMITTEES ON EDUCATION AND ON WATER AND LAND

DATE: Monday, February 12, 2018 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 309

TESTIFIER(S): Russell A. Suzuki, Acting Attorney General, or
Melissa J. Kolonie, Deputy Attorney General or
Anne T. Horiuchi, Deputy Attorney General

Chairs Woodson, Yamane, and Members of the Committees:

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

The purpose of this bill is 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.

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.

HB-2679

Submitted on: 2/7/2018 10:30:32 PM

Testimony for EDN on 2/12/2018 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Ho`omana Pono, LLC	Oppose	Yes

Comments:

The department of education is not in the business of land management but the education of our citizens of Hawaii.

LATE



HB2679
RELATING THE TRANSFER OF LANDS
House Committee on Education
House Committee on Water & Land

February 12, 2018

2:00 p.m.

Room 309

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on HB2679, to ensure that lands held by the Department of Education (“DOE”) remain consistently protected against inappropriate alienation, notwithstanding their exemption from the definition of “public lands” in HRS § 171-2.

OHA appreciates that the DOE may benefit from the ability to manage and dispose of lands that will be transferred to 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 Board of Land and Natural Resources’ oversight and management under Chapter 171, through an amendment to the definition of “public lands” in HRS §171-2. However, to ensure 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, the Hawai’i Housing Finance and Development Corporation, and certain other state entities), OHA requests that this measure expressly reaffirm that current legislative approval requirements for the sale of any state lands also apply to DOE lands. **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, as embodied 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, and to protect “ceded” lands from being sold prior to the resolution of Native Hawaiians’ unrelinquished claims.**

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.”

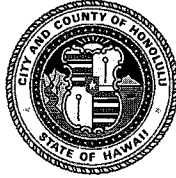
Mahalo nui for the opportunity to testify on this measure.

DEPARTMENT OF PARKS AND RECREATION
CITY AND COUNTY OF HONOLULU

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LATE

KIRK CALDWELL
MAYOR



MICHELE K. NEKOTA
DIRECTOR

JEANNE C. ISHIKAWA
DEPUTY DIRECTOR

February 9, 2018

THE HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION
COMMITTEE ON WATER AND LAND
February 12, 2018 Conference Room 309

The Honorable Justin H. Woodson, Chair
and Members of the Committee on Education
The Honorable Ryan I. Yamane, Chair
and Members of the Committee on Water and Land

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

Dear Chair Woodson, Chair Yamane, and Members of the Committees:

The Department of Parks and Recreation ("DPR") strongly opposes HB 2679, "Relating to Transfer of Land," requiring the City and County of Honolulu ("City") to transfer 58 identified parcels of land upon which a public school is situated, and of which 21 are abutting public park land, to the Department of Land and Natural Resources ("DLNR").

While DPR understands the Department of Education's need for additional facilities to fulfill their educational mission, the 21 city properties included in the HB 2679 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 the DLNR for possible redevelopment and revenue generating options does not continue the intent of these lands.

The affected communities should be aware that HB 2679 will effectively end any of DPR's keiki to kupuna type of recreational programming, including our flagship Summer Fun program, as well as the numerous sports leagues and events which currently take place in these 21 parks.

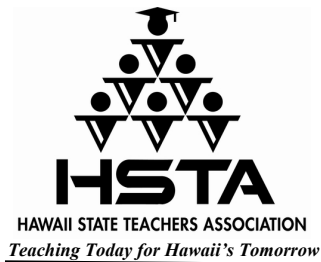
Thank you for the opportunity to submit testimony in opposition of HB 2679.

Sincerely,

A handwritten signature in black ink, appearing to read "Michele K. Nekota".

(for) Michele K. Nekota
Director

cc: Roy K. Amemiya Jr., Managing Director



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TESTIMONY BEFORE THE HOUSE COMMITTEES ON
EDUCATION and WATER AND LAND

RE: HB 2679 - RELATING TO THE TRANSFER OF LANDS

MONDAY, FEBRUARY 12, 2018

COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Woodson, Chair Yamane, and Members of the Committee:

The Hawaii State Teachers Association **supports HB 2679**, 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 21st 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.



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Testimony to the House Committees on Education; and Water & Land
Monday, February 12, 2018
2:00 pm
State Capitol, Room 309

RE: HB 2679 – Relating to Transfer of Lands

Chairs Woodson & Yamane, Vice-Chairs Kong & Todd , & members of the Committees:

My name is Gladys Quinto-Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-HAWAII is in strong support of H.B.2679 which proposes to transfer 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.

The legislature passed Act 155, 2013 SLH. The purpose of Act 155 was to optimize the use of public school lands to generate opportunities to improve public school facilities and infrastructure to meet the challenges of the twenty-first century and to improve the overall quality of education in Hawaii. In particular, the Act was to establish a pilot program to generate revenue from uses for public purposes, such as workforce housing, to build and retrofit twenty-first century schools and create more school-centered communities.

We understand the Department of Education (DOE) has been implementing Act 155 through the development of a process which would allow them to redevelop underutilized school properties. A major barrier to these redevelopment efforts is the fact that the DOE does not own any of the lands it occupies. As the bill states of the roughly 2,120 acres of land under its school facilities on Oahu, the City and County of Honolulu owns approximately one-half of the land under the existing school facilities, roughly 1,004 acres. In addition, the Department of Land and Natural Resources (DLNR) owns the other half, roughly 1,116 acres.

Investors and lenders raise concerns about the uncertainty, delays and risks associated with getting approvals from two different landowners. The DOE has no control over the approval process by either the City or the State DLNR.

The proposed bill will allow DOE to proceed with the implementation of Act 155, and possibly create opportunities for revenue generation, new or renovated schools, and mixed use developments, including housing and quite possibly teacher housing.

We believe the proposed bill is a necessary step that would truly test the concepts envisioned when Act 155 was first passed.

We are in **strong support** of H.B. 2679, and appreciate the opportunity to express our views on this matter.