

---

---

# A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1 PART I

2 SECTION 1. The legislature finds that Act 155, Session  
3 Laws of Hawaii 2013 (Act 155), was approved by the governor on  
4 June 21, 2013. The purpose of Act 155 was to optimize the use  
5 of public school lands to generate opportunities to improve  
6 public school facilities and infrastructure to meet the  
7 challenges of the twenty-first century and to improve the  
8 overall quality of education in Hawaii. In particular, Act 155  
9 established a pilot program to generate revenue from uses for  
10 public purposes, such as workforce housing, to build and  
11 retrofit twenty-first century schools, and create more school-  
12 centered communities. The pilot program laid important  
13 groundwork for a statewide approach and plan to optimize public  
14 school lands and modernize public school facilities.

15 The legislature further finds that in subsequent  
16 discussions with government agencies and private developers, the  
17 existing fifty-five year lease term allowed for in Act 155 would



1 be problematic in financing redevelopment projects. Also, the  
2 department of education has been working closely with the Hawaii  
3 housing finance and development corporation for assistance in  
4 the implementation of redevelopment projects on department of  
5 education-controlled lands. The Hawaii housing finance and  
6 development corporation is pursuing ninety-nine year leasehold  
7 condominiums for some of their housing projects on state-owned  
8 lands. Extending the lease terms for redevelopment under  
9 Act 155 would allow prospective developers flexibility in  
10 securing financing as well as insuring a better long-term return  
11 to the State for the use of its lands.

12 The purpose of this part is to allow the department of  
13 education to lease public school lands for a term of not more  
14 than ninety-nine years per lease to provide prospective  
15 developers flexibility in securing financing.

16 SECTION 2. Section 302A-1151.1, Hawaii Revised Statutes,  
17 is amended by amending subsection (b) to read as follows:

18 "(b) Notwithstanding sections 171-13 and 302A-1151, or any  
19 other law to the contrary, the department may lease public  
20 school land on terms it deems appropriate, including a leaseback



1 of all or a portion of the improvements constructed; provided  
2 that:

3 (1) The board may identify and select up to five public  
4 school land sites as candidates for participation in  
5 the pilot program; provided that:

6 (A) During the identification and selection process,  
7 the board shall be subject to chapter 92, shall  
8 hold at least one public meeting in each affected  
9 community, and shall foster school and community  
10 participation; and

11 (B) If the site is on land owned by the county, the  
12 department shall consult with the county;

13 (2) The department may lease public school land for no  
14 more than three public school land sites identified  
15 and selected by the board pursuant to paragraph (1)  
16 under leases for a term of not more than [~~fifty-five~~  
17 ~~years per lease, unless extended pursuant to section~~  
18 ~~171-36,~~] ninety-nine years per lease, to lessees who  
19 shall be required to modify, construct, or utilize  
20 facilities to benefit public educational purposes, in



1           accordance with specific request for proposal or  
2           request for information guidelines;  
3       (3) Each lease shall stipulate that the lessee may retain  
4           any revenue generated from the facilities; provided  
5           that:  
6           (A) The lessee shall be obligated to maintain and  
7                 operate the facilities to benefit public  
8                 educational purposes for the length of the lease;  
9           (B) The lessee shall be obligated to pay to the  
10                county all applicable property tax on the value  
11                of any improvements;  
12           (C) A leasehold premium may be charged to the lessee  
13                for the right to use the public school land based  
14                on a competitive process that complies with  
15                applicable sections of chapter 103D;  
16           (D) Upon the expiration of the lease, the facilities  
17                shall revert to the department; and  
18           (E) All revenues and proceeds derived by the State  
19                under this section shall be deposited in the  
20                school facilities subaccount pursuant to section  
21                302A-1151.2; and



1 (4) Notwithstanding any law to the contrary, the  
2 department may enter into leaseback agreements that  
3 allow the department to lease or sublease the property  
4 to a third party. The department may lease back the  
5 property from the third-party lessee or sublessee for  
6 a contractual period of time, after which the  
7 department shall own any improvements."

8 PART II

9 SECTION 3. The legislature finds that Act 206, Session  
10 Laws of Hawaii 2017 (Act 206), was approved by the governor on  
11 July 12, 2017. The purpose of Act 206 was to transfer lands  
12 under existing department of education facilities from the city  
13 and county of Honolulu to the department of land and natural  
14 resources.

15 The legislature further finds that rather than have the  
16 lands transferred from the city and county of Honolulu to the  
17 department of land and natural resources and then to the  
18 department of education, Act 206 should be amended to allow the  
19 city and county of Honolulu to transfer the lands directly to  
20 the department of education in a similar manner pursuant to  
21 Act 210, Session Laws of Hawaii 2018.



1           The purpose of this part is to amend Act 206, Session Laws  
2 of Hawaii 2017, to allow the city and county of Honolulu to  
3 transfer lands under existing department of education facilities  
4 directly to the department of education, rather than to the  
5 department of land and natural resources.

6           SECTION 4. Act 206, Session Laws of Hawaii 2017, section 2  
7 is amended by amending subsections (a), (b), and (c) to read as  
8 follows:

9           "(a) Notwithstanding any other law to the contrary, the  
10 fee simple interest to the following parcels of land with the  
11 existing improvements thereon (hereinafter "the properties")  
12 (but not including submerged land, accreted land, or any land  
13 makai of the shoreline), shall be conveyed by the city and  
14 county of Honolulu to the department of [~~land and natural~~  
15 ~~resources~~] education as grantee, as is, where is:

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



- 1 (6) TMK 1-9-4-8-20 (Waipahu High);  
2 (7) TMK 1-9-8-31-17 (Aiea High);  
3 (8) TMK 1-7-4-18-1 (Leilehua High);  
4 (9) TMK 1-9-9-2-23 (Radford High);  
5 (10) TMK 1-6-7-2-10 (Waialua High and Intermediate);  
6 (11) TMKs 1-6-003-048, 1-6-021-005 (Farrington High);  
7 (12) TMK 2-7-024-001 (Kaimuki High);  
8 (13) TMK 3-9-005-027 (Kaiser High); and  
9 (14) TMK 3-5-020-004 (Kalani High).
- 10 (b) The city and county of Honolulu shall prepare,  
11 execute, and record, in the land court or bureau of conveyances,  
12 as appropriate, a quitclaim deed to convey each above-listed  
13 parcel with all existing improvements, subject to the property  
14 boundaries determined pursuant to subsection (d), to the  
15 department of [~~land and natural resources,~~] education, as  
16 grantee. As these are conveyances in which the city and county  
17 of Honolulu and the State and its agencies are the only parties,  
18 the tax imposed by section 247-1, Hawaii Revised Statutes, shall  
19 not apply to them. Effective on the date of transfer pursuant  
20 to subsection (e), every reference to the present titleholder or  
21 the head of the department or agency in each instrument, if the



1 titleholder is a department or an agency, shall be construed as  
2 a reference to the department of [~~land and natural resources.~~]  
3 education.

4 (c) The department of [~~land and natural resources]~~  
5 education shall accept the properties in their existing  
6 condition. All claims and liabilities against the city and  
7 county of Honolulu, if any, which the department of [~~land and~~  
8 ~~natural resources]~~ education has, may have had, or may have in  
9 the future, regarding any injury, loss, cost, damage, or  
10 liability, including reasonable attorney's fees, concerning the  
11 physical, environmental, soil, economic, and legal conditions of  
12 the conveyed properties, are released, waived, and  
13 extinguished."

14 PART III

15 SECTION 5. Statutory material to be repealed is bracketed  
16 and stricken. New statutory material is underscored.

17 SECTION 6. This Act shall take effect on July 1, 2019.





**Report Title:**

Public School Lands; Lease; Department of Education; Transfer

**Description:**

Part I: Allows the department of education to lease public school lands for a term of not more than ninety-nine years per lease. Part II: Amends Act 206, Session Laws of Hawaii 2017, to allow the city and county of Honolulu to transfer lands under existing department of education facilities directly to the department of education, rather than to the department of land and natural resources. (SD1)

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

