

STATE OF HAWAII
HAWAII STATE PUBLIC LIBRARY SYSTEM
OFFICE OF THE STATE LIBRARIAN
44 MERCHANT STREET
HONOLULU, HAWAII 96813

HOUSE COMMITTEE ON LOWER & HIGHER EDUCATION
Tuesday, June 23, 2020
1:00pm
State Capitol, Room 325

By Stacy A. Aldrich
State Librarian

S.B. 3103, S.D.2 Relating to a School Facilities Agency

To: Chair Justin H. Woodson
Vice Chair Mark J. Hashem
Vice Chair Sean Quinlan
Members of the House Committee on Lower & Higher Education

The Hawaii State Public Library System (HSPLS) appreciates the opportunity to provide comments related to S.B. 3103, S.D.2 which proposes to establish a new School Facilities Agency (SFA) for the purpose of managing all public school planning, development and construction related to capital improvement projects.

HSPLS appreciates the amendments that were included to ensure that the proposed SFA will work with HSPLS for those projects that may impact HSPLS operations directly, particularly where libraries are located in close proximity to public schools and their construction projects.

HSPLS also notes that there is no "...deputy state librarian of the department of education" as referenced in the bill, Section 2, page 15, lines 18-19.

Thank you for the opportunity to provide comments on this measure and your continued support of the Hawaii State Public Library System.

OFFICE OF INFORMATION PRACTICES

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TELEPHONE: 808-586-1400 FAX: 808-586-1412
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To: House Committee on Lower and Higher Education

From: Cheryl Kakazu Park, Director

Date: June 23, 2020, 1:00 p.m.
State Capitol, Conference Room 325

Re: Testimony on S.B. No. 3103, S.D. 2
Relating to Education

Thank you for the opportunity to submit testimony on this bill, which would establish a School Facilities Agency to be responsible for all public school development, planning, and construction. The Office of Information Practices (OIP) takes no position on the substance of this bill, **but questions why the proposed policy-making School Facilities Board would be allowed to form subcommittees that would not be required to follow the usual requirements under part I of chapter 92, the Sunshine Law.**

By default, a subcommittee of a board must follow the same Sunshine Law requirements as the full board, meaning that they must provide public notice of their meetings, accept public testimony, open the meetings to the public unless the law allows a closed meeting, and keep minutes of those meetings. As an alternative to creating a subcommittee, a Sunshine Law board also has the option to use a permitted interaction set out in section 92-2.5(b), HRS, which would allow board members to talk together outside a meeting if the board has created a temporary group of less than a quorum of its members to look into a specific area before reporting back to the full board. This temporary group, sometimes called a

permitted interaction group or “PIG,” will essentially dissolve after reporting back, and the board must wait to discuss or take action until the next meeting after the PIG’s report, which allows the public an opportunity to testify on the PIG’s report and recommendations before the full board considers it.

The permitted interaction proposed by this bill would allow the School Facilities Board to create subcommittees of less than a quorum of the board that do not follow the Sunshine Law’s requirements as a subcommittee normally must, and also are not subject to the constraints a PIG normally must operate within. There can be instances in which a Sunshine Law board is appropriately given a board-specific permitted interaction that basically allows less than a quorum of its members to talk outside a meeting – for instance, where a board dealing with relatively fine-grained issues is completely or mostly made up of government employees who must discuss the same issues before the board as part of their regular jobs. The subcommittee proposed in this bill, however, will be charged with setting policy regarding the relatively broad topic of public school facilities and will be made up mainly of gubernatorial appointees, so it is not clear why a permitted interaction would be appropriate here.

OIP therefore recommends that this Committee either (1) explain in its Committee Report on this bill why it finds that the School Facilities Board’s workgroups or subcommittees should be excused from the Sunshine Law requirements normally applicable to subcommittees of a board, **or (2) delete the language at bill page 9, lines 9-14,** that allows such workgroups or subcommittees to operate as a permitted interaction.

Thank you for considering OIP’s testimony and recommendation.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON LOWER & HIGHER EDUCATION
ON
SENATE BILL NO. 3103, S.D. 2

June 23, 2020
1:00 p.m.
Room 325

RELATING TO A SCHOOL FACILITIES AGENCY

The Department of Budget and Finance (B&F) offers comments on Senate Bill (S.B.) No. 3103, S.D. 2.

This bill establishes the School Facilities Agency (SFA) to be responsible for all public school development, planning, and construction related to capital improvement projects (CIP) assigned by the Legislature, Governor, or Board of Education. Among other provisions, this bill establishes the School Facilities Special Fund (SFSF) to fund school development, planning, or construction within SFA's jurisdiction and assigns management of school impact fees to SFA. In addition, this bill appropriates \$1,500,000 in general funds for FY 21 for establishment of SFA.

B&F has the following comments regarding areas that are not clear in the current draft of S.B. No. 3103:

- How will SFA ensure compliance with Internal Revenue Service regulations related to private activity to maintain the tax-exempt status for school facilities that were funded by general obligation (G.O.) bonds?

- The Internal Revenue Code (IRC) has certain restrictions on the following transactions with private entities (including for-profit or non-profit organizations, individuals, and the federal government or any of its agencies): a) the direct or indirect loan of tax-exempt G.O. bond proceeds; b) the sale of tax-exempt G.O. bond-financed property; c) the lease or license of bond-financed property (other than leases with a term, inclusive of renewal options, not exceeding 50 days that are negotiated at arm's length for fair market value compensation); and d) contracts for the management or operation of tax-exempt G.O. bond-financed property.
- Additionally, public-private partnership arrangements that transfer operation, control, or use of tax-exempt G.O. bond-financed property to a nongovernmental person must comply with private use restrictions.
- It is noted that most (if not all) school facilities are subject to these private activity restrictions.
- Although S.B. No. 3103, S.D. 2, includes a provision that appropriate accounts and subaccounts be established in the SFSF to ensure compliance with the IRC, these accounts alone are not sufficient to ensure compliance.
- How will SFA coordinate with the Department of Education (DOE) on school facility requirements? Who determines what projects are needed? Who sets project priorities in implementation?
 - Educational program requirements drive school facility needs, but this bill is silent on this critical issue.
- How will SFA be funded regarding: 1) school facility projects; and 2) staffing and operational expenses?

- This bill exempts SFA projects from Chapter 37, HRS, which governs the budgeting and allotment processes for State agencies, but it is silent on how SFA is to request and expend funding for school projects and its operations.
- Will responsibility for major repairs and maintenance (R&M) be assigned to SFA or remain with DOE?
 - It should be noted that roughly one-half of DOE's current CIP budget is for major R&M projects.

As a matter of general policy, B&F does not support the creation of any special fund that does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work, and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Regarding S.B. No. 3103, S.D. 2, it is difficult to determine whether the proposed special fund would be self-sustaining.

Thank you for your consideration of our comments.



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

Date: 06/23/2020

Time: 01:00 PM

Location: 325

Committee: House Lower & Higher
Education

Department: Education

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

Title of Bill: SB 3103, SD2 RELATING TO A SCHOOL FACILITIES AGENCY.

Purpose of Bill: Establishes the School Facilities Agency to be responsible for all public school development, planning, and construction, related to capital improvement projects assigned by the Legislature, Governor, or Board of Education. Places management of school impact fees with the agency. Appropriates funds. Effective 7/1/2050. (SD2)

Department's Position:

The Hawaii Department of Education (Department) respectfully offers comments on SB 3103, SD2. The Department appreciates the legislature's commitment to providing the necessary resources to furnish our schools with appropriate facilities to ensure equitable access to a quality education for our students. The Board of Education (BOE) implemented Policy E-301, which serves as a guiding principle for the Department with regard to its facilities, to ensure that all students have safe, accessible and supportive school facilities.

One of the challenges in maintaining and upgrading our current facilities in a timely manner is the lack of flexibility provided to the Department in statute. The current draft of SB 3103, SD2 proposes to exempt the new School Facilities Agency from a number of statutory requirements, which will ensure the flexibility that the Department currently lacks to provide the optimal response to the many needs facing Department facilities. If these same exemptions were permitted to the Department, it would allow for a more efficient and effective process.

The Department has made progress in improving its systems and with regard to Repair & Maintenance (R&M) and Capital Improvement Projects (CIP). The implementation of our Job Order Contracting and CIP project tracker demonstrates our commitment to modernizing the way we manage these critical projects. We continue to engage with key stakeholders, such as legislators, to maintain real-time status updates for both R&M and CIP projects and to modernize our systems.

During the current public health emergency, the Department allowed contractors on campus to work on critical CIP projects that could not have otherwise been done had students been on campus. Since March 16, 2020, twelve Job Order Contract roofing projects have been completed.

If granted the flexibility proposed for the State Facilities Agency in SB 3103, SD2, the Department will be better able to effectively address school facility needs. The Department will have an incredible opportunity to engage in a community engagement design process for our campuses, connect innovative school facilities to our school design models, link our structural designs to commercialism opportunities to support entrepreneurship for students, and be a partner in the economic development of Hawaii through student voice. Enabling the Department to lead this overhaul of its business functions in support of school design is an important testament to public school empowerment and leadership. The Department stands ready to work with the legislature to further adjust the processes to improve Department facilities.

Thank you for the opportunity to provide testimony on this measure.

The Hawai'i State Department of Education is committed to delivering on our promises to students, providing an equitable, excellent, and innovative learning environment in every school to engage and elevate our communities. 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



SARAH ALLEN
ADMINISTRATOR
BONNIE KAHAKUI
ASSISTANT ADMINISTRATOR

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STATE PROCUREMENT OFFICE**

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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
LOWER & HIGHER EDUCATION
June 23, 2020, 1:00 PM

SB 3103, SD2
RELATING TO SCHOOL FACILITIES AGENCY

Chair Woodson, Vice Chairs Hashem and Quinlan, and members of the committee, thank you for the opportunity to submit testimony on SB 3103 SD2. The State Procurement Office (SPO) opposes the language that would allow the School Facilities Agency to be exempt from HRS §103D, the Hawaii Public Procurement Code (Code), for the development, planning, and construction of public schools.

In general, construction projects exempt from the Code can be very problematic in maintaining public trust in the process. In 2010, Act 82, granted the Board of Regents or the University of Hawaii an exemption from the Code for construction projects. The processes developed were controversial and perceived as subjective and unfair, and as a result, the legislature repealed the president's authority as the chief procurement officer for construction and professional services, construction related, contracts. Those duties were undertaken by the Administrator of the State Procurement Office, pursuant to Act 87, SLH 2013.

It was not until eight years later, in 2018, pursuant Act 42, SLH 2018, that full authority was restored to the University of Hawaii President to act as the Chief Procurement Officer for all procurement contracts under HRS §103D. The Code is time tested, and as a result, the SPO has strong concerns exempting the agency from the procurement code (Section 1, page 2, lines 16-17).

The SPO shares the sentiment of Architect Lorraine Minatoishi, Ph.D when she states in her testimony, that, " ... our schools-institutions that should be the beacon of doing things the correct and proper way, be literally built on de-regulations and lack of oversight? What does this say to our children? Either it says that they don't matter, or its okay to not follow rules."

In recent weeks, with all that is going on with protests across our nation, we should understand that following rules do matter, that fairness is the correct path to follow, and the procurement code is build on the basis of fairness and transparency.

Recommendation:

One of the reasons the procurement of construction and repairs and maintenance is delayed, is because currently, the 21 Chief Procurement Officers in the State of Hawaii do not have the authority to exempt construction procurement on a case-by-case basis. This frustrates government action because often times there are situations where an additional minor scope change is found but is unable to be added to the incumbent already working the site, and a whole new procurement must be made.

While SPO opposes an outright exemption of all DOE construction, it does support giving that authority to the CPO, the Superintendent in this case, to decide on a case-by-case basis which construction procurements should be exempt based on when it is not practicable or advantageous to competitively procure. This would save the State both time and money.

In order to achieve this flexibility, SPO recommends the following **statute change**:

AMEND section: §103D-102 Application of this chapter.

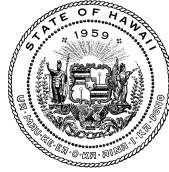
Amend §103D-102(b)(4) to “To procure the following goods ~~or~~ services, or construction which are available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State.”

AMEND section:

§103D-102 Application of this chapter.

Amend §103D-102(b)(4)(L) to “Any other goods, ~~or~~ services, or construction which the policy board determines by rules or the chief procurement officer determines in writing is available from multiple sources but for which procurement by competitive means is either not practicable or not advantageous to the State;” There may be instances when a construction procurement is in a situation where it is not practicable or advantageous to be competed.

Thank you.



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

House Committee on Lower & Higher Education

Tuesday, June 22, 2020
1:00 p.m.
Hawaii State Capitol, Room 309

Senate Bill 3103, Senate Draft 2, Relating to a School Facilities Agency

Dear Chair Woodson, Vice Chairs Hashem and Quinlan, and Members of the Committee:

The Board of Education ("Board") appreciates the intent of SB3103 SD2 but has comments. SB3103 SD2 would establish the School Facilities Agency ("Agency") to be responsible for all public school development, planning, and construction, related to capital improvement projects assigned by the Legislature, Governor, or Board as well as the management of school impact fees.

The Board supports proposed legislation that improves processes and resources for the construction and maintenance of school facilities. To this end, the Board prefers an approach that provides similar exemptions¹ and resources to the Department of Education ("Department") as proposed by this measure for the new Agency rather than the establishment of new, separate agency. Notwithstanding this preference, the Board does not take a position on the fundamental question as to whether the establishment of a separate agency is a better structure that will improve the construction and maintenance of school facilities.

If the Legislature determines a separate agency would improve the construction and maintenance of school facilities, the Board requests that this measure:

- Clearly delineates the powers, duties, and responsibilities of the Agency, the Department, and the Board as they relate to public school land and facilities;
- Maintains the Board's jurisdiction over school facilities by assigning governance authority over the Agency to the Board; and
- Ensures a transition of duties and responsibilities from the Department to the Agency that does not interfere with operations, delay projects, or otherwise negatively affect the ongoing facilities needs of public schools.

¹ Note that the Board does not take a position on the types of exemptions that may be necessary to improve the processes for the construction and maintenance of school facilities. On this matter, the Board defers to the Legislature, Department, and others.

Delineation of Powers, Duties, and Responsibilities

While SB3103 SD2 clearly gives the general responsibility of public school development, planning, and construction to the Agency, the Agency's precise duties and powers to execute its duties and responsibilities are not entirely clear. Further, the Board and Department's powers and responsibilities related to school facilities and lands, if any, are unclear.

The broadest example of unclear powers, duties, and responsibilities lies in the fundamental purpose and role of the Agency as described in proposed new HRS Section 302A-C(a), which states, "Except as otherwise limited by this chapter, the agency shall be responsible for all public school development, planning, and construction related to capital improvement projects assigned by the legislature, governor, or board of education" (Page 2, Lines 11-15). While it is simple enough to deduce that the Legislature would "assign" capital improvement projects to the Agency through legislative appropriations, it is unclear how, and under what authority, the Governor or Board would "assign" capital improvement projects to the Agency. Further, if the Agency is responsible over only capital improvement projects assigned to it, it appears that the Department could continue to retain authority over any other capital improvement projects not assigned to the Agency, but it is not clear what kinds of projects those might be. The lack of clear roles concerning school facilities would likely result in unnecessary redundancies between the Agency and Department, at a minimum, and potentially an outright inefficient use of state funds for the administration of two similar programs.

Moreover, this measure would appear to give broad powers to the Agency, although this too is unclear. SB3103 SD2 proposes a provision that would allow the Agency to "[d]o any and all things necessary to carry out its purposes and exercise the powers given and granted in this subpart."² Without defining the Board's powers, it appears this measure could give the Agency the power to override the Board's policies whenever it deems appropriate to fulfill its purposes. The Board opposes this provision, as the Board does not support proposed legislation that could diminish the Board's power to formulate statewide educational policy as envisioned and established by Article X, Section 3, of the Constitution of the State of Hawaii.

In addition to the aforementioned broad instances of ambiguity, this measure becomes even less clear when juxtaposed against Hawaii Revised Statutes ("HRS") Chapter 302A. For example, SB3103 SD2 would allow the Agency to acquire real property³ and lease or gain control over "state lands under the control and management of another department [that] are required by the agency for its purposes" (Page 10, Lines 9-14). These provisions presumably would allow the Agency to control and manage land. However, it is unclear how these provisions intersect with other existing parts of statute. The following is a non-exhaustive list of statutory provisions that illustrate the Department's authority over school facilities and land that would seemingly overlap and possibly conflict with the Agency's authority for which this measure would provide.

² See proposed new HRS Section 302A-C(d), paragraph (16) (Page 7, Lines 7-9).

³ See proposed new HRS Section 302A-C(d), paragraphs (6) and (7) (Pages 4, Line 12 through Page 5, Line 2).

- HRS Section 302A-1151 gives the Superintendent approval authority over the sale of lands and facilities “no longer necessary for school purposes[.]”
- HRS Section 302A-1151.1 requires the Department to serve as the “facilitator” of “a pilot program for the lease of public school land, including facilities.” (Note that Section 8 of SB3103 SD2 (Page 20, Lines 6-12) would transfer the “development, planning, oversight, management, and responsibility of the capital improvement projects authorized by [the Acts that established and subsequently amended this section of statute]” to the Agency without actually amending HRS Section 302A-1151.1, which is confusing and unclear.)
- HRS Section 302A-1506 authorizes the Department to “enter into such contracts, leases, lease-purchase agreements, or other transactions as may be necessary for the acquisition of public school facilities, including any lands for these facilities[.]”
- HRS Section 302A-1506.2 authorizes the Department to “acquire or contract to acquire” any real property “for its immediate or future use for public educational purposes” and “acquire, construct, reconstruct, rehabilitate, improve, alter, or repair any infrastructure or accessory facilities in connection with any project[.]”

Read together with the totality of the statutory chapter, it is not clear how this measure envisions the delineation of the control and management of school facilities and land between the Agency and the Department.

As a final example, Section 5 of SB3103 SD2 (Page 19, Lines 10-15) would amend most sections within HRS Chapter 302A, Part V, Subpart A, which establishes school impact fees, by “substituting the word “agency”, or similar term, wherever the word “department”, “department of education”, or similar term, appears, as the context requires.” Such a vague declaration for amendments makes it impossible to know the exact statutory changes contemplated by this measure and the effect those changes would have on the powers and responsibilities of the Board, Department, and Agency concerning school impact fees.

Governance

SB3103 SD2 appears to give governance and oversight of the Agency to the Governor, although the Board possibly still has some decision-making authority in some areas under the Agency’s jurisdiction, such as impact fee districts, for example. The proposed new School Facilities Board would evaluate the Executive Director of the Agency, but it would not have any real authority over the Agency, as it would primarily be an advisory body. The Governor would appoint both the Executive Director of the Agency and the members of the School Facilities Board. This structure is concerning and potentially ripe for contention.

Under this governance structure, the Department and Agency would be accountable to different bodies and individuals, yet responsibilities and jurisdiction of both entities would undoubtedly intersect and overlap. This measure does not contemplate any mechanism or structure to resolve conflicts in instances where the two agencies disagree and move in opposing directions.

The Board is able to serve as the intermediary and ultimate decision maker when necessary to resolve conflicts between the Department, the Hawaii State Public Library System, and the charter school system. Therefore, the Board contends that it should have oversight and governance authority over the Agency similar to the authority it has over the Department, the Hawaii State Public Library System, and the charter school system.

Moreover, the Board believes it should retain its authority over school facilities as an important component of public education. A school is more than just buildings on a campus, and those buildings should meet the school's needs. Recognizing the importance of school facilities to a quality education, the Board recently adopted a policy directing the Department to allocate its facilities resources equitably by accounting for the socioeconomic and academic needs of each school's student population.⁴ Thus, moving authority over school facilities completely out of the public education governance structure is inadvisable.

In addition, with governance authority over both the Department and Agency, the Board could help ensure the transfer of positions, records, and equipment from the Department to the Agency, as envisioned Section 9 (Page 20, Lines 13-21 through Page 21, Lines 1-2), to effectuate the purposes of this measure.

Transition

This measure contemplates the establishment of the Agency in the 2020-2021 fiscal year,⁵ which means duties and responsibilities related to capital improvement projects could transfer from the Department to the Agency as early as next school year. The transfer of any duties and responsibilities, however, does not necessarily mean the transfer of Department offices, funds, or positions to the Agency, at least not initially.⁶

The Board is wary of a transition that would place responsibilities on the Agency to execute capital improvement projects in its first year of operations, which is unreasonable and could negatively affect schools and students in the short term. Rather, in its first year, the Agency should focus on hiring personnel, determining its needs, and setting up the rules, policies, and procedures necessary to execute its duties and responsibilities. The Board requests that this measure ensures the transition of duties and responsibilities from the Department to the Agency does not interfere with operations, delay projects, or otherwise negatively affect the ongoing facilities needs of schools.

Thank you for this opportunity to testify on behalf of the Board.

⁴ Board Policy 301-10, entitled "Equitable Allocation of Facilities Resources," states, "The Department shall strive to ensure that all students have safe, accessible, and supportive school facilities by allocating Capital Improvement Program and repair and maintenance resources equitably, effectively, and transparently. This equitable allocation must take into account the socioeconomic and academic needs of each school's student population."

⁵ See Section 6 (Page 19, Lines 16-19).

⁶ See Section 7 (Page 20, Lines 1-5).

Very truly yours,

A handwritten signature in black ink on a light-colored background. The signature reads "Catherine Payne" in a cursive script. The first name "Catherine" is written in a larger, more prominent hand, and "Payne" follows in a similar but slightly smaller cursive. The signature ends with a long, sweeping horizontal stroke that curves slightly upwards at the end.

Catherine Payne
Chairperson, Board of Education
Chairperson, 2020 Legislative Ad Hoc Committee



HAWAI'I STATE ETHICS COMMISSION

State of Hawai'i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai'i 96813

Committee: Committee on Lower and Higher Education
Bill Number: S.B. 3103
Hearing Date/Time: Tuesday, June 23, 2020, 1:00 p.m.
Re: Testimony of the Hawai'i State Ethics Commission
OPPOSING § 302A-F(d) AND PROPOSING AN AMENDMENT
to S.B. 3103, Relating to a School Facilities Agency

Chair Woodson, Vice Chair Hashem, Vice Chair Quinlan, and Members of the Committee on Lower and Higher Education:

The Hawai'i State Ethics Commission ("Commission") respectfully suggests that proposed HRS § 302A-F(d) be amended so that the governor's actions in accepting or disbursing any gift remain subject to the State Ethics Code, HRS chapter 84. If the language remains as is, the Commission is concerned that the governor would control a privately funded "slush fund" that could create conditions ripe for unethical behavior. The Commission's concerns would be addressed if the language of proposed HRS § 302A-F-(d) were amended to begin as follows: "Subject to chapter 84, but any other law to the contrary notwithstanding, the governor may authorize expenditures...."

Proposed HRS § 302A-F(d) purports to allow gifts from private entities to be earmarked for the salaries of executive branch officials. This provision could undermine several provisions of the Ethics Code (including the Gifts Law, HRS § 84-11, the Fair Treatment law, HRS § 84-13, and the Conflicts of Interests law, HRS § 84-14). If a state official is aware that some (or all) of her salary comes from earmarked funding from a private entity, that state official may feel beholden to the wishes of that private entity – creating an irreconcilable conflict of interest. Similarly, this provision sets up a scheme by which well-financed private organizations can purchase additional government services, securing more favorable treatment for themselves and their interests. The Ethics Code also contains an express prohibition on state officials receiving additional compensation for performing their state jobs (HRS § 84-13(a)(2)); section 302A-F(d) suggests that private donors could pay to supplement the salaries of state officials – again, creating conditions by which state officials are beholden to private donors, rather than to the State).

Finally, the language of proposed HRS § 302A-F(d) purports to give the governor control over these funding and salary decisions – using private funds – without any legal constraints other than a yearly report to the legislature. The Commission respectfully suggests that, at a minimum, the governor's actions ought to be constrained by the Ethics Code.

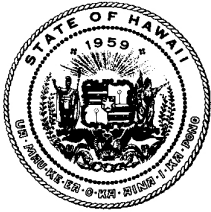
The Commission is not opposed to a mechanism by which the State can accept resources from the private sector. However, the current language allows for excessive private control of state officials and an erosion of the public's trust in the integrity of state government.

Hawai'i State Ethics Commission
Testimony on S.B. 3103 (Opposition/Proposed Amendment)
June 23, 2020
Page 2

Thank you for your continuing support of the Commission's work and for considering the Commission's testimony on S.B. 3103.

Very truly yours,

Daniel Gluck
Executive Director and General Counsel



DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813
Ph. (808) 586-8121 (V) • Fax (808) 586-8129 • TTY (808) 586-8162

June 23, 2020

COMMENTS TO THE COMMITTEE ON LOWER AND HIGHER EDUCATION

Senate Bill 3103, SD2 - RELATING TO A SCHOOL FACILITIES AGENCY.

The Disability and Communication Access Board (DCAB) offers comments on Senate Bill 3103, SD2 - Relating to a School Facilities Agency. The purpose of the bill is to establish a School Facilities Agency to be responsible for all public school development, planning, and construction, related to capital improvement projects assigned by the Legislature, Governor, or Board of Education. The bill would place management of school impact fees with the agency and appropriate funds.

The added §302A-C(b) states, in pertinent part, the following:

(b) The projects of the agency shall be exempt from chapters 6E, 37, 76, 103, 103D, and 343 and all county ordinances except the respective building codes; provided that the agency shall establish and publish transparency initiatives as prescribed by the agency to ensure that the public is properly informed of its activities, to deter fraud and malfeasance, and to allow for public input; provided further that the agency shall adopt rules that provide substantially similar protections to those required by chapter 343...

DCAB does not support the exemption of HRS Chapter 103, which includes HRS §103-50 Building design to consider needs of persons with disabilities; review fees. The purpose of the review covered by this statute is to assist agencies with the requirements to meet their obligations under the Department of Justice, Americans with Disabilities Act, 2010 ADA Standards for Accessible Design. Exempting projects from HRS §103-50 will be detrimental to the Department of Education's (DOE) goal of complying with its federal obligation and potentially increases the DOE's liability for ADA design violations.

Therefore, DCAB recommends adding HRS §103-50 to the pertinent part of §302A-C(b) as an exception along with building codes, as worded below.

(b) The projects of the agency shall be exempt from chapters 6E, 37, 76, 103, 103D, and 343 and all county ordinances except the respective building codes **and HRS §103-50**; provided that the agency shall establish and publish transparency initiatives as prescribed by the agency to ensure that the public is properly informed of its activities, to deter fraud and malfeasance, and to allow for public input; provided further that the agency shall adopt rules that provide substantially similar protections to those required by chapter 343...

Thank you for this opportunity to offer comments on this bill.

Respectfully submitted,
/S/
KIRBY L. SHAW
Executive Director

Statement Before The
HOUSE COMMITTEE ON LOWER & HIGHER EDUCATION

Tuesday, June 23, 2020

1:00 PM

State Capitol, Conference Room 325

in consideration of

SB 3103, SD2**RELATING TO SCHOOL FACILITIES AGENCY.**Chair WOODSON, Vice Chairs Hashem and QUINLAN, and Members of the House
Lower & Higher Education Committee

Common Cause Hawaii opposes SB 3103, SD2, which establishes the School Facilities Agency to be responsible for all public school development, planning, and construction, related to capital improvement projects assigned by the Legislature, Governor, or Board of Education and places management of school impact fees with the agency.

Common Cause Hawaii is a nonpartisan, nonprofit, grassroots organization focused on upholding the core values of American democracy. A representative democracy is one that works for the people; our government should be open, honest, and accountable to and for the benefit of the people it serves.

Common Cause Hawaii supports the goal of expediting the delivery of new and upgraded facilities for our state's students. However, Common Cause Hawaii does not support SB 3103, SD2 and the means by which public lands are proposed to be used to accomplish this laudable goal and the many exemptions to be granted to the new School Facilities Agency from county and state laws, including all county ordinances, other than building codes; state laws on civil service, budgeting, environmental protection, and historic protection, including Hawaiian burials; and parts of the sunshine law and procurement code. It is uncertain as to how the School Facilities Agency will ensure accountability and transparency, if exempted from major development rules.

Rather than issue broad exemptions and alienate public lands, SB 3103, SD2 should provide the School Facilities Agency with the authority and funding necessary to complete its mission while fulfilling all state and county laws. If any exemptions may be necessary, then they should be very narrowly tailored and their justification explained in detail. In the alternative, a task force can be formed to study systemic problems with Hawaii public school facilities projects and recommend changes in the next legislative session.

Common Cause Hawaii opposes SB 3103, SD2. Thank you for the opportunity to testify in opposition to SB 3103, SD2.

Very respectfully yours,

Sandy Ma
Executive Director, Common Cause Hawaii



Young Progressives Demanding Action
P.O. Box 11105
Honolulu, HI 96828

June 23, 2020
1:00 PM

TO: House Committee on Lower & Higher Education
RE: Testimony in Opposition to SB3103 SD2

Aloha Chair Woodson, Vice Chair(s) Hashem & Quinlan, Members of the House Committee on Lower & Higher Education,

My name is Jun Shin. I am a Junior at the University of Hawai‘i at Mānoa, and serve as the Environmental Justice Action Committee Chair for the Young Progressives Demanding Action (YPDA). YPDA advocates for public policies that reflect the values of young people throughout the State of Hawai‘i. One of those values is government accountability to the public. YPDA is in **Opposition to SB3103 SD2**, Relating to a School Facilities Agency.

Our keiki deserve the best public schools possible to learn and grow in. Education is crucial to creating informed citizens in a democratic society. However, we believe that this potential School Facilities Agency will only bring more harm than good as projects by this agency will be exempt from the following chapters of the Hawai‘i Revised Statutes 6E (Historic Preservation), 37 (Budget Allotment), 76 (Civil Service Law), 103 (Public Money & Public Contracts Expenditures), 103D (Procurement Code), and 343 (Environmental Impact Statements), and all county ordinances except the respective building codes. This agency would side step a series of important laws, notably around environmental and cultural protection, laws to prevent government waste, as well as even county planning, zoning, and land use ordinances while no substantive language exists with the legislation itself to provide for alternatives. For our testimony, YPDA wanted to especially highlight the importance of preserving Hawai‘i Revised Statutes Chapter 6E and Chapter 343.

Hawai‘i Revised Statutes 6E is the law that protects and lays out how to treat historical and cultural sites, including iwi kūpuna or the ancestral bones of the kānaka maoli people. From the construction of the Ritz Carlton in Kapalua, to the construction of the H-3 freeway, to the construction of the Keeamoku Walmart and beyond, Native Hawaiians have struggled and still struggle against developers and the State to stop the desecration of ancient burial sites. 6E was created in large part due to this struggle. Bypassing this law serves as an invitation for further desecration of historical and burial sites without the fear of penalties while erasing the need to properly engage with experts on either the burial councils or through the historical review process.

HRS 6E isn't simply a pesky regulation to step over. We have an obligation to meaningfully address social, cultural, and historical injustices done in our lands. We need to stand in solidarity with the Native Hawaiian community and make sure their interests in our lands and natural resources are fully met.

Hawai'i is also dealing with the climate crisis. We need to ensure that our finite natural and cultural resources are being protected as best as they possibly can. Hawai'i Revised Statutes Chapter 343 ensures that there is transparency during projects. Your project starts off with an Environmental Assessment (EA) when an action or project deals with the conservation district, State or County lands/funds, or county general plan. In the case where your EA triggers an Environmental Impact Statement (EIS), that means your project would have a big enough impact on the community, environmentally sensitive areas, Public Trust resources, endangered or rare species, etc. HRS 343 doesn't determine if a project is good or bad, it serves as a disclosure law. This is where the public has the opportunity to act on what is disclosed. The statutes make it very clear that the public is an essential part of the decision making process, and they are encouraged to stay informed and participate in the Environmental Impact Statement process.

We are living in a time where communities are becoming educated on land use issues, and no longer want just a courtesy nod toward engagement when development arrives on their doorsteps. The Office of Environmental Quality Control's Environmental Notice allows the public to keep up to date on EA and EIS. Giving all of us the chance to review, submit written comments, and even legally challenge decisions that do not adequately cover how impacted our homes, our environment, and our customary and traditional rights will be. We need to ensure that the transparency that HRS Chapter 343 brings continues, it's crucial to have a strong public element in planning decisions. Writing HRS 343 out means further eroding the public's trust in governing institutions, as well as removing a key check on poor and improper development. This set of checks and balances is not only crucial for environmental and cultural protection, but also for making sure that the schools that are being built are safe for our keiki's to attend.

Young Progressives Demanding Action is in **Opposition to SB3103 SD2**. The legislature should not be considering such a controversial measure when public participation and access to the Capitol has become very limited due to the COVID-19 pandemic. We respectfully ask for you to **HOLD** this bill.

Mahalo for the opportunity to testify,

Jun Shin,
Environmental Justice Action Committee Chair
Young Progressives Demanding Action (YPDA)
Cell: 808-255-6663
Email: junshinbusiness729@gmail.com
CC: action@ypdahawaii.org

841 Bishop St., Suite 301
Honolulu, Hawaii 96813



Telephone: 808 926-1530
Contact@HEECoalition.org

Committee on Lower and Higher Education
Representative Justin Woodson, Chair
Representative Mark Hashem, Vice Chair
Representative Sean Quinlan, Vice Chair

June 23, 2020

Dear Chair Woodson, Vice Chairs Hashem and Quinlan, and Members of the Committee.

This testimony is submitted in **support of SB3103 SD2.**

HE`E Coalition has been following the issue of our aging school facilities for the past ten years. We strongly support the establishment of a School Facilities Agency, which can be solely focused on the tremendous needs of our school facilities.

States such as New Mexico and Ohio and districts such as New York City have school facilities agencies separate from their education departments that have successfully transformed the development and management of their school facilities systems. They have been able to manage effectively the use of public funds by creating comprehensive standards and transparent processes of how public funds are allocated and for what purpose.

We are also pleased that the School Facilities Agency will have the ability to expand early learning centers to help provide early learning access to families and children who currently do not have these opportunities.

Hui for Excellence in Education, or "HE`E," promotes a child-centered and strength-based public education system in which families, communities and schools are valued and empowered to help every student succeed. HE`E works to bring diverse stakeholders together to harness collective energy, share resources, and identify opportunities for progressive action in education.

Thank you for the opportunity to testify. Our support represents a 75% consensus or more of our voting membership.

Sincerely,

Cheri Nakamura
HE`E Coalition Director



Academy 21	Junior Achievement of Hawaii
After-School All-Stars Hawai'i	Kamehameha Schools
Alliance for Place Based Learning	Kanu Hawai'i
American Civil Liberties Union	*Kaua'i Ho'okele Council
*Castle Complex Community Council	Keiki to Career Kaua'i
*Castle-Kahuku Principal and CAS	Kupu A'e
Coalition for Children with Special Needs	*Leaders for the Next Generation
Education Institute of Hawai'i	Learning First
*Faith Action for Community Equity	McREL's Pacific Center for Changing the Odds
Fresh Leadership LLC	Native Hawaiian Education Council
Girl Scouts Hawaii	Our Public School
Harold K.L. Castle Foundation	*Pacific Resources for Education and Learning
*HawaiiKidsCAN	*Parents and Children Together
*Hawai'i Afterschool Alliance	*Parents for Public Schools Hawai'i
*Hawai'i Appleseed Center for Law and Economic Justice	Punahou School PUEO Program
*Hawai'i Association of School Psychologists	Special Education Provider Alliance
Hawai'i Athletic League of Scholars	*Teach for America
*Hawai'i Charter School Network	The Learning Coalition
*Hawai'i Children's Action Network	US PACOM
Hawa'i Education Association	University of Hawai'i College of Education
Hawai'i Nutrition and Physical Activity Coalition	YMCA of Honolulu
* Hawai'i State PTSA	<i>Voting Members (*) Voting member organizations vote on action items while individual and non-voting participants may collaborate on all efforts within the coalition.</i>
Hawai'i State Student Council	
Hawai'i State Teachers Association	
Hawai'i P-20	
Hawai'i 3Rs	
Head Start Collaboration Office	
It's All About Kids	
*INPEACE	
Joint Venture Education Forum	



June 21, 2020

House of Representatives
The Thirtieth Legislature
Regular Session of 2020

Committee on Lower & Higher Education

Rep. Justin H. Woodson, Chair
Rep. Mark J. Hashem, Vice Chair
Rep. Sean Quinlan, Vice Chair

Date: June 23, 2020
Time: 1:00 p.m.
Place: Conference Room 325
State Capitol

Testimony on SB3103, S.D. 2 Relating to A School Facilities Agency

By Liz Ho, Administrator
UPW/AFSCME Local; 646 AFL-CIO

HB3103, S.D. 2 establishes the School Facilities Agency (SFA) to be responsible for all public-school development, planning, and construction related to capital improvement projects assigned by the Legislature, Governor, or Board of Education. This bill is an improvement over the previous version HB3103. However, there are areas that require further clarification.

Paragraph 302A-C Powers: generally, states in part that the agency shall be responsible for all public-school development, planning and construction. Repair and maintenance are not mentioned as part of the responsibility of the SFA. However, subparagraph (8), page 5, states that "...the agency may...construct, reconstruct, rehabilitate, improve, alter...any project. Page 6, subparagraph (11) also mentions rehabilitation to be performed by the SFA. Further, Stand.Com.Report No. 3069 by the Senate WAM committee only reports on "construction".

The term "rehabilitate" with respect to building maintenance and repair inherently includes "repair". The language should be clear that the SFA will not and does not perform R&M and rehabilitation on newly constructed DOE facilities. This is the current work performed by the R&M staff and should be applied to any new DOE building constructed with tax monies and government bonds, with all punch list items cleared and subsequently turned over to the State of Hawaii.

According to the American Society of Real Estate Counselors', rehabilitation" ...usually involves repair of all building's basic systems and elements of construction. Repair may include

UNITED PUBLIC WORKERS
AFSCME Local 646, AFL-CIO
Administrator Liz Ho



replacement or strengthening of deficient or damaged structural elements. Repair of leaks and damage to roofs and exterior walls, windows, and doors also are typically included.”

The UPW supports the concept of improving the facilities of the DOE. This has been the goal for many years. However, the bill will cause confusion in determining what construction includes and what the intent of the State is in creating the SFA with respect to construction. The UPW requests that the bill be clear that R&M operations of the DOE shall not be privatized. The following amendment should be included in page 3, line 5, after the word “positions”. The R&M functions of the DOE will not be privatized. Further, HRS 76 the civil service system should be honored and protected as provided for in the Hawaii State Constitution.

Thank you for the opportunity to share our concerns with HB3103, S.D. 2.

UNITED PUBLIC WORKERS
AFSCME Local 646, AFL-CIO
Administrator Liz Ho

TEL (808) 847-2631 | **EMAIL** Lho@afscme.org | 426 North School Street, Honolulu, HI 96817



June 23, 2020

Rep. Justin Woodson
Chair, Committee on Lower & Higher Education
State Capitol
Honolulu, Hawai`i 96813

RE: SB3103, SD2 RELATING TO A SCHOOL FACILITIES AGENCY

Hearing Date: Tuesday, June 23, 2020, 1:00 pm

Dear Chair Woodson:

My name is Jeanne Afuvai Schultz, President & CEO of the Hawai`i Institute for Public Affairs (HIPA). HIPA strongly supports SB3103, SD2 which establishes a School Facilities Agency to be responsible for all public school development, planning, and construction, related to capital improvement projects.

In Hawai`i, public school facilities are inadequate to meet the needs of 21st Century learning. In 2016, the State Department of Education reported that the average age of Hawai`i's public schools is approximately 61 years, of which 53 buildings are over 100 years of age. School facilities more than 50 years old often fail to provide ideal conditions for student learning, including lack of air conditioning, strained electrical systems, stressed Internet access, and questionable safety and security.

A 21st century school includes a full complement of the people, programs and places that support a wide range of personal learning styles and instructional modalities. More recent models for educational delivery include innovative and effective practices like differentiated instruction, cooperative and project-based learning, multiple pathways and other educational strategies. These new strategies call for school designs that include some significant modifications, like more flexible and adaptable floor plan layouts, more advanced technology, improved daylighting and more. These design changes are all part of a new era of twenty-first century school facilities.

Over the years, the Hawai`i State Legislature has adopted legislation which has begun the process for the Department of Education to build 21st century schools, including:

- Act 309 (SLH 2012) established a Special Fund dedicated for 21st Century Schools construction;
- Act 155 (SLH 2013) which established a pilot project program to develop three 21st century schools;

- Act 210 (SLH 2018) which transferred public school lands to the Department of Education, and authorized the DOE to develop underutilized public school lands for joint commercial, educational and community purposes that would further public education;

SB3103, SD2 is essential for the final phase of a decade's worth of legislation required to aggressively move forward on establishing an agency which has the authority, powers, and capacity to build new 21st century schools for Hawai'i's keiki. The measure creates an independent authority, separate from the DOE, but requires it to collaborate with the department to ensure that teaching and student needs are integrated into school design and facilities.

The school facilities authority would also be responsible for the construction of the much needed pre-K classrooms throughout the state. It is estimated that about 20,000 3- and 4-year olds are without access to early childhood education due to the lack to qualified teachers and available classrooms.

Lastly, SB3103, SD2 will create thousands of construction jobs needed to build 21st century schools in the upcoming years as we seek to rebuild the Hawai'i economy as a result of the coronavirus pandemic.

HIPA strongly supports SB3103, SD2, and encourages the passage of this measure. Thank you for the opportunity to testify on this matter.

Sincerely,

/S/

JEANNE AFUVAI SCHULTZ
President & CEO

Testimony of
Pacific Resource Partnership

House Committee on Lower & Higher Education
The Honorable Justin Woodson, Chair
The Honorable Mark J. Hashem, Vice Chair
The Honorable Sean Quinlan, Vice Chair

SB 3103 SD2 Relating to a School Facilities Agency

Tuesday, June 23, 2020
1:00 P.M.
Conference Room 325

Aloha Chair Woodson, Vice Chairs Hashem and Quinlan, and Members of the Committee:

Pacific Resource Partnership (PRP) writes in support of SB3103 SD2, which represents a collective effort by government and community stakeholders to facilitate the expedited development, planning and construction of Hawaii's public schools.

Hawaii Department of Education (HIDOE) is comprised of 15 complex areas and 256 schools averaging approximately 60 years old. HIDOE schools require repairs and maintenance that far exceed current funding levels. Most HIDOE educational facilities were originally built to support an instructional model that has since evolved.¹ The State of Hawaii must find new and innovative ways to modernize its educational facilities to enhance the educational outcomes for Hawaii's children and youth. Best practices that have proven successful in modernizing public schools can and should inform our collective goals and efforts.

SB 3103 SD2 establishes a new entity, School Facilities Agency, which will have the power, authority, and expertise to modernize Hawaii's educational facilities in a focused and expedited manner, allowing HIDOE to concentrate its resources on the most important task of educating our children and youth. PRP believes the Schools Facilities Agency model will complement HIDOE's mission and the interaction and cooperation of the two will produce a combined effect greater than the sum of their individual efforts.

There will no doubt be challenges and issues that will need to be addressed in implementing the School Facilities Agency concept, but we should be supportive of new ideas and ways of reaching our goals.

PRP supports SB 3103 SD2 and respectfully recommends a friendly amendment noting that Chapter 104, Hawaii Revised Statutes, applies to any long-term lease agreement for real property owned by and leased from the state for the purposes of development pursuant to this bill. Thank you for this opportunity to submit written testimony.

¹ Hawaii Department of Education Statewide Facility Master Plan, April 2019



THE CIVIL BEAT
LAW CENTER FOR THE PUBLIC INTEREST

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House Committee on Lower & Higher Education
Honorable Justin H. Woodson, Chair
Honorable Mark J. Hashem, Vice Chair
Honorable Sean Quinlan, Vice Chair

RE: Testimony Opposing on S.B. 3103 S.D. 2, Relating to a School Facilities Agency
Hearing: June 23, 2020 at 1:00 p.m.

Dear Chair and Members of the Committee:

My name is Brian Black. I am the Executive Director of the Civil Beat Law Center for the Public Interest, a nonprofit organization whose primary mission concerns solutions that promote government transparency. Thank you for the opportunity to **oppose the confused Sunshine Law language** in S.B. 3103 S.D. 2.

As a practical matter, all policy work of the School Facilities Board will occur in secret if working group discussions occur outside the Sunshine Law. Such an exemption is antithetical to the transparency that Hawai`i has embraced for decades.

In response to testimony from the Law Center and the State of Hawai`i Office of Information Practices raising questions about the permitted interaction for the School Facilities Board, the Senate Committee on Education amended the bill with the intent to “[m]ak[e] the School Facilities Board subject to the State sunshine law.” S. Stand. Comm. Rep. No. 2878. *Unfortunately, the amendment only confuses the issue further.*

The Law Center agrees with the prior testimony by OIP recommending either (1) a committee report explain why the Board’s subgroups should not be required to comply with the Sunshine Law; or (2) deletion of the “permitted interaction” for the Board’s subgroups. Absent some compelling explanation for exempting these groups from open meetings requirements, the Law Center would support deletion.

To be clear, a “permitted interaction” exempts the designated group from the Sunshine Law – usually imposing alternative requirements to protect the public interest. But S.D. 2 exempts the Board’s subgroups from any requirements. Unlike other permitted interactions under the Sunshine Law, the bill does not impose any requirements on the subgroups. The subgroups would be permitted to deliberate toward decision and make voting commitments outside the public eye without notice and without receiving any community testimony. Nothing about these meetings would be publicly reported.

House Committee on Lower & Higher Education

June 23, 2020

Page 2

Thank you again for the opportunity to oppose the confused Sunshine Law language in S.B. 3103 S.D. 2.



TESTIMONY TO THE COMMITTEE ON LOWER & HIGHER EDUCATION

**Tuesday, June 23, 2020, 1:00 p.m.
State Capitol, Conference Room 325**

TO: The Honorable Justin H. Woodson, Chair
The Honorable Mark J. Hashem, Vice Chair
The Honorable Sean Quinlan, Vice Chair
LHE Committee Members

TESTIMONY IN SUPPORT OF SB3103 SD2 RELATING TO A SCHOOL FACILITIES AGENCY

I am Peter Ho, Chairman, President and CEO of Bank of Hawaii, testifying in support of SB3103 SD2 relating to the establishment of a School Facilities Agency. As a major employer with more than 2,000 employees across the state, we commend the legislature for its comprehensive, multi-pronged approach to address Hawaii's most pressing economic and social issues. Our state's aging public school buildings and infrastructure continue to be major impediments to better learning. It is critical that our public schools provide the type of innovative classroom designs, digital technologies, and learning environments that will help ensure the future academic success of our students.

This bill would create an independent Schools Facilities Agency to be housed within the DOE, while functionally allowing the DOE to focus on carrying out its most important mission of educating our youth. The Agency would be responsible for all public school development, planning and construction related to capital improvement projects assigned by the legislature, Governor or Board of Education.

The new Agency has the potential to expedite much needed projects to provide the best schools possible. It is a practical and thoughtful approach to help increase efficiencies, which aligns with the vision created by the legislature under the 21st Century Schools Model.

I respectfully encourage your favorable consideration of this measure. Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink that reads 'Peter Ho'.

Painting Industry of Hawaii Labor Management Cooperation Trust Fund

Hawaii Tapers Market Recovery Trust Fund

Hawaii Glaziers, Architectural Metal Glassworkers Local Union 1889
AFL-CIO Stabilization Trust Fund

&

Carpet, Linoleum and Soft Tile Local Union 1926 Market Recovery Trust Fund

Re: The House Committee on Lower and Higher Education
Hearing on Senate Bill 3103, SD2 Relating To A School Facilities Agency
Date: June 23, 2020
Time: 1:00 p.m.
Location: Conference Room 325

Chair Woodson and Members of the Committee:

Thank you for this opportunity to submit testimony on behalf of the Painting Industry of Hawaii Labor Management Cooperation Trust Fund, Hawaii Tapers Market Recovery Trust Fund, Hawaii Glaziers, Architectural Metal Glassworkers Local Union 1889 AFL-CIO Stabilization Trust Fund, and Carpet, Linoleum and Soft Tile Local Union 1926 Market Recovery Trust Fund **commenting** on Senate Bill 3103, SD2. The aforesaid organizations are labor management cooperation funds between the Painters Union, Tapers Union, Glaziers Union, and Carpet and Soft Tile Layers Union and their signatory contractors.

Senate Bill 3103, SD2 creates a new school facilities agency that will, among other things, be responsible for all public school development, planning, and construction related to capital improvement projects that are assigned to it by the Legislature, Governor, or Board of Education. The proposed agency will be exempt from the state procurement code, Chapter 103D, Hawaii Revised Statutes in the construction of capital improvement projects, except for the requirement that any invitation for bids for construction must specify the name of each person or firm to be engaged by the bidder as a joint contractor or subcontractor in the performance of the contract and the nature and scope of the work to be performed by each.

Our organizations understand and appreciate the desire to improve Hawaii's public schools. Many of our members and signatory contractors have keiki that attend public schools. Our commitment to improve our keiki's school facilities is further reflected by the action of the Painters Union, Local 1791 and its parent organization, the International Union of Painters and Allied Trades, District Council 50, which participates in an annual school beautification project in collaboration with the Hawaii State AFL-CIO, known as "Labor of Love." In January of 2020, over 150 painting apprentices from Local 1791 participated in this year's Labor of Love, at Kalihi Elementary School. In the past seven years, DC50 and/or Local 1791 have also participated in volunteer beautification projects at Waimanalo

Elementary School (2013); Mountain View Elementary School (2015); Wailuku Elementary School (2016); Maui High School (2017); Waianae Elementary School (2018); Kawanānakoā Middle School (2018); and Chiefess Kapiolani Elementary School (2019).

The language in the SD2 requiring the listing of subcontractors is essential to protect our union contractors from the undesirable, unethical and harmful practice of bid shopping. Contrary to what some will argue, this language does **not** contribute to delay and cost increases on public construction projects. A task force convened pursuant to Senate Concurrent Resolution 92, S.D.2 (2013) studied the issue of bid protests related to subcontractor listing. The 16 page report and 91 pages of attachments can be found online at the Department of Accounting and General Services' website at:

<https://ags.hawaii.gov/wp-content/uploads/2012/09/ProcurementTaskForceReportLS2013.pdf>

In the report, the Task Force found that, in general, bid protests did **not** result in any significant delays or increased costs. See Task Force Report at 8-9. The work of the Task Force revealed that protests related to the subcontractor listing requirement increased costs to the State by 0.06% in FY2013 and 0.34% in FY2014. See id. at 13. The Task Force recommended no changes be made to Chapter 103D with respect to the subcontractor listing requirement. See id. at 10-11. From the Task Force Report, it is clear that the subcontractor listing requirement does not cause or increase delay and cost increases on public construction projects.

For all of the reasons above, we respectfully ask that, should the Committee move this this measure, it keep the subcontractor listing language that is in the current version of this measure.

Thank you again for this opportunity to share our comments and concerns.



Chamber of Commerce HAWAII

The Voice of Business

Testimony to the House Committee on Lower and Higher Education

Tuesday, June 23, 2020 at 1:00 P.M.

Conference Room 325, State Capitol

RE: SB 3103 SD2, RELATING TO A SCHOOL FACILITIES AGENCY

Chair Woodson, Vice Chairs Hashem and Quinlan, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports** SB 3103 SD2, which establishes the School Facilities Agency to be responsible for all public-school development, planning, and construction, related to capital improvement projects (CIP) assigned by the Legislature, Governor, or Board of Education.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber appreciates the Legislature's work to introduce a package of bills to address cost-of-living and educational issues through a comprehensive and holistic approach. We believe that we all must play a part in allowing Hawaii residents to find brighter futures here at home. The Chamber is committed to contributing to collaborative approaches.

The upkeep and innovation of our public-school facilities is imperative to providing an optimal learning and teaching environment for our students and teachers. Hawaii's public school facilities continue to face a number of infrastructure challenges with some facilities reportedly over 100 years old. These types of facilities do not often provide ideal conditions for student learning. This bill would help to provide mechanisms to process CIPs in a timely manner in order to address these challenges.

The Chamber also recognizes the financial toll that the current COVID-19 pandemic has caused on our State's budget and the impact it will have on the way that our education system will operate moving forward. We are hopeful that the State Legislature will be able to continue to move this bill in order to provide much needed support to improve our classroom needs. As learning and student skillsets evolve, it is imperative that their learning environments evolve with them. This bill will give educators and students the tools that they deserve to ensure that our public schools are living up to their promise to our keiki.



Thank you for the opportunity to testify.

ACEC

AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Hawaii

50 Years of Excellence

2019 - 2020

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House Committee on Lower and Higher Education

Hearing Date: June 23, 2020, Conference Room 325

Time: 1p.m.

Subject: **SB 3103, SD2 Relating to School Facilities Agency Support, with Suggested Amendment to require the use of Qualification Based Selection in Procuring Professional Service Contracts for Licensees under Chapter 464**

Dear Chair Woodson, Vice-Chairs Hashem and Perruso, and Members of the Committee:

The American Council of Engineering Companies of Hawaii (“ACECH”) represents 66 engineering consulting firms with over 1,500 employees throughout Hawaii. ACEC nationally is a strong supporter of long-term investment in modern and efficient infrastructure as a driver of our economy. We are in support this bill to establish a school facilities agency that may improve the delivery of public-school development, planning, and construction.

We are very pleased that the SD2 (p. 3, lines 15-17) requires that the proposed school facilities agency be subject to Qualifications-Based Selection (“QBS”), the nationally recognized model procurement code for the procurement of design professional services. QBS protects public interests by providing for the selection of the best qualified design professional for each project. Thus, QBS is essential for public safety.

Without the inclusion of QBS, we would have serious concerns about this bill.

Thank you for the opportunity to testify to ensure that our schools are designed by the most qualified design professionals and are safe for our keiki and educators.



SIERRA CLUB OF HAWAI'I

HOUSE COMMITTEE ON LOWER AND HIGHER EDUCATION

June 23, 2020

1:00 PM

Room 325

In **OPPOSITION** of **SB 3103 SD2**: Relating to a Schools Facility Agency

Aloha Chair Woodson, Vice Chair Hashem, and members of the committee,

On behalf of our 27,000 members and supporters, the Sierra Club of Hawai'i **opposes SB 3103 SD2**. This bill creates a new Schools Facility Agency that is responsible for all public school development, planning, and construction. This agency would be able to sidestep a number of Hawai'i Laws (chapters 6E, 37, 76, 103, 103D, and 343). Of major concern for the Sierra Club is the exemption from Chapter 343- Environmental Impact Statements and Chapter 6E- Historic Preservation.

[Chapter 6E](#), HRS, is the law for protecting Hawaii's significant historic properties and burials, including iwi kūpuna, or Native Hawaiian ancestral bones. SB3103 would allow the new Schools Facility Agency to disregard the historical and cultural significance of project sites and alter, damage, or even destroy historical properties and burial sites. The legislature needs to adopt policies that encourage the stewardship of historical and cultural assets, not provide blanket exemption from the law.

[Chapter 343](#), HRS, is the law for requiring environmental impact statements for projects with potentially significant impacts or environmental assessments for less controversial projects. Chapter 343 ensures the School Facilities Agency looks before it leaps into big infrastructure projects by considering and minimizing environmental impacts, keeping the public informed throughout the development process, and valuing relevant agency expertise and stakeholder input.

Compliance with Chapter 343 and 6E is as much about protecting natural and cultural resources as it is about ensuring our keiki have safe, well-designed schools. We oppose SB3103 as it fails to preserve the state's historic and cultural properties, protect natural resources, or include opportunity for meaningful community engagement. Such a controversial bill should go through the entire legislative process and not be passed during the COVID19 emergency situation.

Thank you for the opportunity to provide testimony in **opposition to SB3103 SD2**. We respectfully ask the committee to HOLD this measure.



June 22, 2020

COMMITTEE ON LOWER & HIGHER EDUCATION

Rep. Justin H. Woodson, Chair

Rep. Mark J. Hashem, Vice Chair

Rep. Sean Quinlan, Vice Chair

Hearing: 1:00 p.m., Tuesday, June 23, 2020
State Capitol, Conference Room 325
SB 3103, Relating to a School Facilities Agency

Aloha Chair Woodson, Vice-Chairs Hashem and Quinlan, and members of the committee:

We are writing to provide comments on SB 3103, relating to a school facilities agency. This measure establishes the School Facilities Agency to be responsible for all public school development, planning, and construction, related to capital improvement projects assigned by the Legislature, Governor, or Board of Education.

To ensure the smooth transition of work already being performed, to expedite projects that are underway, and to clarify the appropriate use of subcontractors for indefinite delivery/indefinite quantity contracts, we request the following amendments to section 302A-C, subparagraph (b) as underlined:

(b) The projects of the agency shall be exempt from chapters 6E, 37, 76, 103, 103D, and 343 and all county ordinances except the respective building codes; provided that the agency shall establish and publish transparency initiatives as prescribed by the agency to ensure that the public is properly informed of its activities, to deter fraud and malfeasance, and to allow for public input; provided further that such initiatives shall allow for indefinite delivery, indefinite quantity contracts; provided further that the agency shall adopt rules that provide substantially similar protections to those required by chapter 343; provided further that the

Page Two

creation of the agency shall not affect existing civil service
positions or contracts currently in effect.

Gordian is the nation's leading provider of facility and construction cost data, software and expertise. In Hawaii, it provides facility and construction cost data, software, and expertise to the University of Hawaii and the Department of Education. Thank you for the opportunity to testify.

Fernando Peña

Manager, Government & Regulatory Affairs



e: f.pena@gordian.com

w: www.gordian.com

SB-3103-SD-2

Submitted on: 6/22/2020 12:50:51 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lynelle Marble	Hawaii Executive Collaborative	Support	No

Comments:



**Conservation Council
for Hawai'i**

Hawai'i's voice for wildlife

Kō Hawai'i / leo no nā holoholona lōhiu



**Submitted to the House Committee and Lower and Higher Education
Hearing: Tuesday, June 23, 2020
Conference Room 325
SB3103, SD2: School Facilities Agency**

Conservation Council For Hawaii (CCH) requests that your committee holds on SB3103, SD2. CCH supports the need to address the backlog of school facility needs, however forming a separate agency that would be exempt from procurement, environmental, and historic preservation laws does not support public trust, protect our island home environment, nor support ancestral remains, and cultural landscapes. CCH requests this committee holds on SB3103, SD2.

**Telephone/Fax: 808.593.0255 | email: info@conservehi.org | web:
conservationcouncilhawaii.org**

P.O. Box 2923 | Honolulu, HI 96802 | Office: 250 Ward Ave. Suite 215 | Honolulu, HI 96814

President Rachel Sprague | Vice President: Lisa Hinano Rey | Secretary: Julie Leialoha

Treasurer: Sunshine Woodford | Directors: Robin Kaye, Steven Lee Montgomery

National Wildlife Representatives: Les Welsh, Rachel Sprague

Executive Director: Moana Bjur | Operations and Events Director: Jonnetta Peters





SB3103 SD2
RELATING TO A SCHOOL FACILITIES AGENCY
House Committee on Lower & Higher Education

June 23, 2020

1:00 p.m.

Room 325

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB3103 SD2, which would establish a School Facilities Agency (SFA) responsible for the development, planning, and construction of capital improvement projects that support our public schools. While OHA appreciates innovative ideas that can help expedite school-related capital improvements, OHA cannot support this bill's proposed blanket exemption from Hawai'i Revised Statutes (HRS) Chapter 6E in its entirety, and has significant concerns regarding the proposed exemption from HRS Chapter 343 as well. **The proposed blanket exemption from HRS Chapter 6E, as well as the unspecified substitute process in lieu of HRS Chapter 343's environmental review requirements, could subvert or completely obviate laws and processes critical to protecting Hawai'i's irreplaceable and invaluable historic sites, iwi kūpuna (ancestral Native Hawaiian remains), and our fragile natural and cultural resources.**

1. A blanket exemption from Chapter 6E and associated county ordinances would result in total uncertainty on whether and how the SFA will identify and mitigate impacts to historic resources and iwi kūpuna.

HRS Chapter 6E provides critical procedural and substantive protections for our islands' historic properties, including irreplaceable cultural resources and iwi kūpuna. Among other protections, HRS Chapter 6E ensures the referral of proposed SFA projects that could impact historic and cultural resources as well as iwi kūpuna to the State Historic Preservation Division (SHPD) for historic preservation review; such review in turn informs project planning and ensures appropriate expert and stakeholder consultation to avoid or mitigate historic preservation impacts. Chapter 6E also describes processes for the treatment of iwi kūpuna known to be situated in project areas or that may be inadvertently discovered during project development, including notification to law enforcement authorities to determine jurisdiction, as well as consultation with island burial councils and other appropriate stakeholders to help determine a respectful final disposition.

OHA is aware that previous Department of Education projects have encountered iwi kūpuna during ground disturbing activities. In these sensitive instances, there were no surface archaeological sites or features to consider as it is common for iwi kūpuna locations to be unmarked. The Chapter 6E processes provided clear steps that resulted in the protection and respectful final dispositions for the iwi kūpuna, and that still allowed the projects to move forward to conclusion. **Providing the SFA with a total exemption**

from HRS Chapter 6E – an unprecedented exemption provided to no other government entity thus far – would result in total uncertainty on how SFA projects will identify, mitigate impacts to, and otherwise protect historic resources and iwi kūpuna, if at all. In addition, the proposed exemption from HRS Chapter 6E would further eliminate any legal recourse for even the most egregious and knowingly destructive conduct in SFA projects. **Accordingly, should the Committee choose to move this measure forward, OHA strongly urges the removal of the contemplated exemption from HRS Chapter 6E, including and especially with regards to its historic preservation and iwi kūpuna provisions.**

2. It is unclear how the adoption of rules intended to be a substitute for the HRS Chapter 343 environmental review process will in fact ensure meaningful procedural protections for natural and cultural resources, or provide Native Hawaiians and the general public with commensurate opportunities to review and inform project planning and decisionmaking.

The environmental review process embodied in HRS Chapter 343, originally established over four decades ago, plays a vital role in the preservation of Hawai‘i’s limited natural and cultural resources. It ensures that decisionmakers consider and take a “hard look” at the potential social, environmental, and cultural impacts of covered projects and actions, and expressly consider alternative actions and project designs that may mitigate such impacts. The process also provides opportunities for stakeholders, government agencies, the Native Hawaiian community, and the general public to provide valuable information that to decisionmakers may be critical to prudent project planning, and that decisionmakers may not otherwise have any knowledge of. This environmental review process demonstrates our state’s well-founded desire for careful, responsible planning that reflects the highly limited and often fragile nature of our islands’ lands and resources.

For example, an environmental review of a proposed new school building would not only highlight the likely short-term, long-term, and cumulative impacts to natural and cultural resources by the building project itself, but would also reveal the potential impacts caused by associated activities, such as ground disturbing construction, as well as identify alternative projects or development approaches that may mitigate or even avoid unnecessary impacts. Native Hawaiians and the public would also have the opportunity to ensure that potential impacts to important natural and cultural resources as well as Native Hawaiian traditional and customary practices are considered in the planning and design of the building. As such, OHA has significant concerns regarding the exemption of SFA projects from HRS Chapter 343.

While OHA appreciates that the SFA would, under the current draft of this measure, be required to develop a substitute process for Chapter 343’s requirements, it is unclear whether and how this substitute process would be beneficial to the SFA’s construction efforts, while also providing for the same level of public review and input as that provided for under existing and well-established HRS Chapter 343 procedures and requirements. **Notably, the most recent amendments to the rules implementing HRS Chapter 343 took years to develop, and relied upon decades of institutional expertise that the SFA would not have. Requiring the SFA to promulgate rules to implement**

similar protections as those provided for under HRS Chapter 343 could result in a years-long delay before any projects could commence, frustrating its intended purpose. On the other hand, rules that are hastily developed and that fail to properly establish a substitute environmental review process that provides for an appropriate level of procedural protections and prudent project planning, including commensurate opportunities for public review and input, could result in a vast range of irreparable, but avoidable, harms to natural and cultural resources. **Therefore, should the Committee choose to move this measure forward, OHA strongly recommends that the Committee consider the removal of any exemption from HRS Chapter 343 as well.**

For the above reasons, OHA respectfully requests that the Committee **HOLD** SB3103 SD2, or to minimally remove any contemplated exemptions from HRS Chapters 6E and 343. Mahalo for the opportunity to testify on this measure.



June 23, 2020

Rep. Justin Woodson
House Committee on Lower and Higher Education
State Capitol
Honolulu, HI 96813

Re: SB 3103, SD2

Rep. Woodson and Committee Members:

This bill creates a school facilities board and also allows board members to skate around the Sunshine Law, or open meetings law.

We ask you to remove the portion of the bill that allows working groups and subcommittees of the board with less than quorum as permitted interactions with no requirements to meet in public under the Sunshine Law.

The bill is not acceptable to open government supporters with the provision about permitted interactions of subcommittees or task forces meeting without a quorum.

Please remove this open meeting exemption from the bill.

Sincerely,

Stirling Morita
President, Hawaii Chapter SPJ

TESTIMONY BEFORE THE HOUSE COMMITTEE ON LOWER AND HIGHER
EDUCATION

RE: SB 3103, SD2 - RELATING TO SCHOOL FACILITIES AGENCY

TUESDAY, JUNE 23, 2020

MITZIE HIGA, LEGISLATIVE CHAIR

DEMOCRATIC PARTY OF HAWAII LABOR CAUCUS

Chair Woodson and Members of the Committee:

The Democratic Party of Hawaii Labor Caucus **is providing comments on SB 3103, SD2**, relating to School Facilities Agency.

While the Labor Caucus strongly supports the concept to expediently improve our public school facilities to meet 21st century needs and recognize the need for structural change, we cannot support this measure in its current form, as it is still unclear how existing unionized employees and potential new-hire employees would be affected. There are 140 employees in the Department of Education Office of Facilities and Operation, including architects, planners, building inspectors, and engineers, who may be adversely impacted by the creation of the School Facility Agency (SEA). **While this bill S.B. 3103, SD2, specifically states that this measure shall not be construed to transfer positions from the DOE to the SEA, it is still unclear which employees will carry out the duties of the agency, or if they will be creating new positions not subject to chapter 76, even if not replacing those within DOE Facilities and Operations.**

Additionally, we stand with other unions that strongly oppose all blanket exemptions to civil service law (HRS 76) and as these exemptions are in direct conflict with Article XVI, Section 1 of the Hawaii State Constitution and state law which establish a merit-based system free from coercive political influences. We can understand that certain administrators or management positions could be “at will,” however we oppose denying employment protections for all other employees. The projects of this agency should not have exemptions, as stated on page 2, lines 16-18, of the current draft of this bill, (b) “The projects of the agency should be exempt from chapters 6E, 37, 76, 103, 103D, and 343.” This means if passed this bill would exempt this agency’s projects from historic preservation (6E), Budget Allotment (37), Civil Service Law (76), Hawaii Public Procurement Code (103D), and environmental impact statements (343), with a few exceptions to those laws such as they will need to be transparent and allow input from the community as stated on page 2 lines 17-21 and page 3 lines 1-5.

Thank you for considering comments on this bill, **the Labor Caucus cannot support it fully in its current form.**

SB-3103-SD-2

Submitted on: 6/22/2020 6:43:18 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Hardy Spoehr	Spoehr Foundation	Oppose	No

Comments:

Aloha. Thank you for the opportunity to provide testimony in opposition to SB 3103 as it currently reads. The concept of the legislation would on its face seem to provide a mechanism for fast-tracking the development of school facilities, but it does so at the expense of our island society and those safeguards which keep Hawai'i anchored to our cultural roots - our historical legacies in property and `aina and to our environmental safeguards which enable us to maintain our quality of life for ourselves and our future generations.

This legislation would exempt any takings, facility development, and facility management from any archaeological and historical studies and any environmental impact statements or assessments and completely limit the community's ability to participate in the planning process should the developer desire.

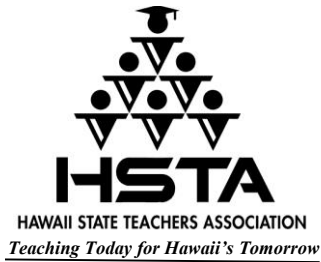
Additionally, it's not clear what is the limited scope of this new entity - is it applicable to only public elementary, intermediate, and high schools or does it also include public pre-schools and our public university system and/or other public educational entities?

Finally, if the need to simply fast-track the DOE process of educational facility development then this measure needs to be reworked with the DOE to enable that to happen. Exemption from the state contractual system (Chapter 103/103D) may then be warranted.

As this measure currently is written we can not and do not support this legislation. Mahalo.

Hardy Spoehr, President

The Spoehr Foundation



1200 Ala Kapuna Street ♦ Honolulu, Hawaii 96819
Tel: (808) 833-2711 ♦ Fax: (808) 839-7106 ♦ Web: www.hsta.org

Corey Rosenlee
President

Osa Tui Jr.
Vice President

Logan Okita
Secretary-Treasurer

Wilbert Holck
Executive Director

TESTIMONY BEFORE THE HOUSE COMMITTEE ON LOWER AND HIGHER
EDUCATION

RE: SB 3103, SD2 - RELATING TO SCHOOL FACILITIES AGENCY

TUESDAY, JUNE 23, 2020

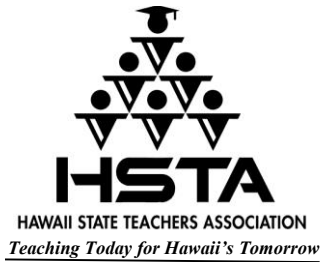
COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Woodson and Members of the Committee:

The Hawaii State Teachers Association **is providing comments on SB 3103, SD2**, relating School Facilities Agency.

While we strongly support the concept to expediently improve our public school facilities to meet 21st century needs and recognize the need for structural change, we cannot support this measure in its current form, as it is still unclear how existing unionized employees and potential new-hire employees would be affected. **There are 140 employees in the Department of Education Office of Facilities and Operation, including architects, planners, building inspectors, and engineers, who may be adversely impacted by the creation of the School Facility Agency (SEA). While this bill S.B. 3103, SD2, specifically states that this measure shall not be construed to transfer positions from the DOE to the SEA, it is still unclear which employees will carry out the duties of the agency.**

Additionally, we strongly oppose all blanket exemptions to civil service law (HRS 76) and have consistently stated that these exemptions are in direct conflict with Article XVI, Section 1 of the Hawaii State Constitution and state law which establish a merit-based system free from coercive political influences. We can understand that certain administrators or management positions could be “at will,” however we oppose denying employment protections for all other employees. The projects of this agency should not have exemptions, as stated on page 2 lines 16-18 of the current draft of this bill, (b) “The projects of the agency should be exempt from chapters 6E, 37, 76, 103, 103D, and 343.” **This means if passed this bill would exempt this agency’s projects from historic preservation (6E), Budget Allotment (37), Civil Service Law (76), Hawaii Public Procurement Code (103D), and environmental impact statements (343), with a few**



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Corey Rosenlee
President

Osa Tui Jr.
Vice President

Logan Okita
Secretary-Treasurer

Wilbert Holck
Executive Director

exceptions to those laws, for instance that from Chapter 76, no current civil service jobs will be lost, but what protections will there be for future hires in this agency? The agency would still need to be transparent and allow public comments, as outlined in lines page 2 lines 17 – 21 and page 3 lines 1-5, but what about the rest of other statutes?

Thank you for considering Hawaii State Teachers Association comments on this bill, we cannot support it fully in its current form.



**Hawaiian
Electric**

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
LOWER & HIGHER EDUCATION**

S.B. 3103, SD2

Relating to a School Facilities Agency

Tuesday, June 23, 2020
1:00 p.m. Agenda Item #2
State Capitol, Conference Room 325

Written Testimony in Support

Shannon Asato
Treasurer
Hawaiian Electric Company, Inc.

Chair Woodson, Vice Chair Hashem, Vice Chair Quinlan and Committee Members,

My name is Shannon Asato and I am testifying on behalf of Hawaiian Electric Company Inc., (Hawaiian Electric Company) in support of S.B. 3103, SD 2, Relating to a School Facilities Agency.

The Hawaiian Electric Companies believe that one of the foundational elements to building a better Hawaii is investing in our keiki. Hawaiian Electric is supportive of a bill that will create an agency dedicated to planning, designing and constructing modern schools. This should more quickly address facility construction to meet the needs of our students, educators and renewable energy policies. This in turn will build more sustainable communities that will help to preserve our culture while improving our economic future.

Thank you for this opportunity to testify.

SB-3103-SD-2

Submitted on: 6/23/2020 5:04:38 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Albert Perez	Maui Tomorrow Foundation, Inc.	Oppose	No

Comments:

While we support addressing school facility needs, an agency exempt from environmental, and historic preservation laws invites abuse with little public recourse. These laws keep our children safe and prevent the outright desecration of all ancestral remains. Please do not vote for its passage.

Mahalo!

SB-3103-SD-2

Submitted on: 6/20/2020 5:40:37 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sherry Pollack	Individual	Oppose	No

Comments:

Aloha

I oppose any agency to be exempted from procurement, environmental, and historic preservation laws. This is not in the best interests of the people of Hawaii. Please do not pass this harmful bill.

Mahalo for this opportunity to testify.

SB-3103-SD-2

Submitted on: 6/20/2020 5:50:05 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Individual	Oppose	No

Comments:

SB-3103-SD-2

Submitted on: 6/20/2020 5:57:58 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Caroline Kunitake	Individual	Oppose	No

Comments:

Dear Chair Justin H. Woodson, Vice Chair Mark J. Hashem, Vice Chair Sean Quinlan and the Committee on Lower & Higher Education,

I am writing in opposition to SB3103 SD2.

There is no denying that we need more public school facilities. However I simply don't agree bypassing so many other laws and reviews in order to expedite the building and approval process.

We need to identify other opportunities to assist the Department of Education to build these facilities in a more efficient manner. There may be opportunities within the procurement process, overall planning, design and project management of these facilities to expedite the supply of new facilities. It is important to explore these ideas with the State Procurement Office, Department of Accounting and General Services and the Department of Education. We need to ask the Department of Education administrators who have worked on failed or delayed facility projects to find out the pain points/lessons learned and then prioritize the potential solutions that the legislature can assist with.

Respectfully yours,

Caroline Kunitake

SB-3103-SD-2

Submitted on: 6/20/2020 6:44:14 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Tara Rojas	Individual	Oppose	No

Comments:

SB-3103-SD-2

Submitted on: 6/20/2020 6:45:17 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cory Harden	Individual	Oppose	No

Comments:

Aloha legislators,

Haven't we learned yet that ignoring the environment and culture is like burning down our own house?

Please oppose SB 3103.

Mahalo!

Cory Harden

SB-3103-SD-2

Submitted on: 6/20/2020 7:37:59 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
carol lee kamekona	Individual	Oppose	No

Comments:

SB-3103-SD-2

Submitted on: 6/20/2020 8:35:00 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dyson Chee	Individual	Support	No

Comments:

SB-3103-SD-2

Submitted on: 6/20/2020 8:53:58 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Natalie	Individual	Oppose	No

Comments:

Dear Chair Woodson, Vice Chair Hashem, and Members of the Lower and Higher Education Committee,

Please OPPOSE SB3103. While I support addressing our school facility needs, an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good. These laws keep our children safe, uphold the trust of taxpayers, and stop the outright desecration of all ancestral remains, Native Hawaiian or otherwise. Such a controversial measure should NOT be passed in light of the limited opportunity for public participation and dialogue over its final amended form. Please do not vote for its passage and HOLD SB3103 in committee.

Thank you,
Natalie Toma, (808)797-9399, 94-1042 Mahinahina St., Waipahu

SB-3103-SD-2

Submitted on: 6/20/2020 9:36:14 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dylan Ramos	Individual	Oppose	No

Comments:

Aloha Chair Woodson, Vice Chair Hashem, and Members of the Lower and Higher Education Committee,

Please OPPOSE SB3103. While I support addressing our school facility needs, an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good. These laws keep our children safe, uphold the trust of taxpayers, and stop the outright desecration of all ancestral remains, Native Hawaiian or otherwise. Such a controversial measure should NOT be passed in light of the limited opportunity for public participation and dialogue over its final amended form. Please do not vote for its passage and HOLD SB3103 in committee.

Mahalo,

Dylan Ramos

Honolulu, HI

SB-3103-SD-2

Submitted on: 6/20/2020 3:24:15 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Edward B Hanel Jr	Individual	Oppose	No

Comments:

As proposed, SB 3102 SD2 is too broad. While the present permit process is cumbersome and bureaucratic, a blanket exception to all the cited various laws and regulations is a symptom, not a solution. Is there the political will to establish an oversight mechanism that could review decisions to ignore otherwise applicable laws and regulations? Will the taxpayer be assuming the cost for future liabilities for damages caused by the School Facilities Commission in exercising its exception to environmental or historical protection requirements? What oversight is there to question a decision early in the process about actions that could create future liabilities?

if a permit requirement is waivable for the School Facilities Commission, isn't the real question about whether the requirement is needed at all.

SB-3103-SD-2

Submitted on: 6/21/2020 12:27:34 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Danielle Ogez	Individual	Oppose	No

Comments:

Dear Chair Woodson, Vice Chair Hashem, Rep. Kobayashi (I am a member of your district), and other Members of the Lower and Higher Education Committee,

Please OPPOSE SB3103. While I support addressing the state's public education problems and facilities, this bill does nothing to ensure that the agency be accountable to environmental and historic preservation. As it is writtent, the agency would be exempt from environemntal impact statements, historic and cultural preservation, public procurement, and public transparency laws. Without significant revisions that provide this necessary oversight, this bill and its agency are unsafe for our community. Such a controversial measure should NOT be passed in light of the limited opportunity for public participation and dialogue over its final amended form. Please do not vote for its passage and HOLD SB3103 in committee.

Thank you

Dr. Danielle Ogez

SB-3103-SD-2

Submitted on: 6/21/2020 3:50:11 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Bridgit Bales	Individual	Oppose	No

Comments:

I strongly oppose this bill. We must protect environmental laws and historic preservation laws. Please do not pass this bill. Thank you.

SB-3103-SD-2

Submitted on: 6/21/2020 7:04:19 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Joanna Maile Pokipala	Individual	Oppose	No

Comments:

Dear Chair Woodson, Vice Chair Hashem, and Members of the Lower and Higher Education Committee,

Please OPPOSE SB3103. While I support addressing our school facility needs, an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good. These laws keep our children safe, uphold the trust of taxpayers, and stop the outright desecration of all ancestral remains, Native Hawaiian or otherwise. Such a controversial measure should NOT be passed in light of the limited opportunity for public participation and dialogue over its final amended form. Please do not vote for its passage and HOLD SB3103 in committee.

Thank you,
Joanna Maile Pokipala

SB-3103-SD-2

Submitted on: 6/21/2020 9:35:24 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rynette Keen	Individual	Oppose	No

Comments:

Dear Chair Woodson, Vice-Chair Hashem, and Members of the Lower and Higher Education Committee,

As a Native Hawaiian and resident of our beloved islands, I am in strong opposition to SB3103 SD2. While I support addressing our school facility needs, an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good. These laws keep our children safe, uphold the trust of taxpayers, and stop the outright desecration of all ancestral remains, Native Hawaiian or otherwise. With this said, I am asking you all to vote NO on SB3103 SD2.

Thank you for your consideration of this request.

Mahalo Nui,

R. Ipo Keen

lpokeen808@gmail.com

Kahului, Maui, HI

SB-3103-SD-2

Submitted on: 6/21/2020 10:20:12 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
cheryl B.	Individual	Oppose	No

Comments:

At this time when we are already struggling to make ends meet everywhere, we DO NOT need another agency in the DOE. We need less. BUT on this bill, we also can not allow an agency that sidesteps laws that are currently in place. Of major concern is the exemption from the EIS. We have learned so much over the past years, decades of the importance of a proper EIS and what happens (cost and more) when this is not done.

The DOE is already bloated in places that do not directly affect children. We need more folks in the classrooms, budget for that, please.

SB-3103-SD-2

Submitted on: 6/21/2020 11:56:31 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rhonda	Individual	Oppose	No

Comments:

SB-3103-SD-2

Submitted on: 6/21/2020 12:57:14 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Greg Vondiziano	Individual	Oppose	No

Comments:

Aloha mai kōkou e Chair Woodson, Vice Chair Hashem, and Members of the Lower and Higher Education Committee,

Please OPPOSE SB3103. While I support addressing our school facility needs, an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good. These laws keep our children safe, uphold the trust of taxpayers, and stop the outright desecration of all ancestral remains, Native Hawaiian or otherwise. Such a controversial measure should NOT be passed in light of the limited opportunity for public participation and dialogue over its final amended form. Please do not vote for its passage and HOLD SB3103 in committee.

Me ke aloha pumehana,
Greg Vondiziano

SB-3103-SD-2

Submitted on: 6/21/2020 1:59:39 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Zack Stoddard	Individual	Oppose	No

Comments:

Dear Chair Woodson, Vice Chair Hashem, and Members of the Lower and Higher Education Committee,

Please OPPOSE SB3103. While I support addressing our school facility needs, an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good.

I've worked in agencies administering these processes for years and they work to catch environmental and other issues while helping build public buy-in. If you want to make it easier to improve school facilities, better to do the hard work of cleaning up and streamlining these processes instead of creating exemptions.

Thanks,

Zack Stoddard

SB-3103-SD-2

Submitted on: 6/21/2020 2:59:20 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
De Austin	Individual	Oppose	No

Comments:

Dear Chair Woodson, Vice Chair Hashem, and Members of the Lower and Higher Education Committee,

Please OPPOSE SB3103.

As a public school teacher on Maui, I support addressing our school facility needs BUT an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good.

As I am of Native Hawaiian descent, I am strongly opposed to any measure which harms the cultural history of these islands and diminishes requirements for environmental protection.

These laws keep our children safe, uphold the trust of taxpayers, and stop the outright desecration of all ancestral remains, Native Hawaiian or otherwise.

Such a controversial measure should NOT be passed in light of the limited opportunity for public participation and dialogue over its final amended form.

Please do not vote for its passage and HOLD SB3103 in committee.

Thank you,

Dezireen Austin

SB-3103-SD-2

Submitted on: 6/21/2020 3:01:18 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Momi Ventura	Individual	Oppose	No

Comments:

Aloha Chair Woods on, Vice Chair Hashem, And Members Of The Lower And Higher Education Committee,

Please Please OPPOSE SB3103. While I Addressing Our School Facility Needs, An Agency Exempt From Procurement, Environment, And Hawai'i's Historic Preservation Laws Will Invite Much More Harm Than Good.!! These Law's Keep Our Children SAFE, Uphold The Trust Of Taxpayers, And Stop The Absolute Horrible Desecration Of Our Ancestral Remains, Native Hawaiians Or Otherwise. Such A Controversial Measure Should Absolutely NOT Be Passed In Light Of The Limited Opportunity For Our Public Participation And Moreover Our Dialogue Over It's Final Amended Form. As Hawaiian's We Ask Please Do Not Vote For It's Passage And Hold SB3103 In Committee. Mahalo..

SB-3103-SD-2

Submitted on: 6/21/2020 5:26:36 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Meredith Buck	Individual	Oppose	No

Comments:

Please OPPOSE SB3103. While I support addressing our school facility needs, an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good. These laws keep our children safe, uphold the trust of taxpayers, and stop the outright desecration of all ancestral remains, Native Hawaiian or otherwise. Such a controversial measure should NOT be passed in light of the limited opportunity for public participation and dialogue over its final amended form. Please do not vote for its passage and HOLD SB3103 in committee.

SB-3103-SD-2

Submitted on: 6/21/2020 5:49:33 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Bronson Kainoa Kiyoshi Azama	Individual	Oppose	No

Comments:

Aloha mai Kakou, I am a graduate of Castle High School in the Class of 2020. I would like to express my opposition to the formation of a School Facilities Agency, this agency cannot be exempt from the required EIS and Burial laws of Hawai'i. The state regardless of what agency should not be allowed to cut through the red tape it has created. This has no equity whatsoever for anyone, and allows the state desecrate our burials and cause adverse impacts to our environment without any form of oversight and transparency that would raise various concerns from the community as a result of the deligence and due process that goes into an Environmental Impact Survey (EIS) and Cultural Impact Assessment (CIA). This blocking of transparency through the process is simply not ok, especially with a government that already has trust issues with the public. An exemption for one should be an exemption for all, however this exemption is not ok as it would DEFINITELY allow the desecration of sacred spaces, and adverse impacts on the environment with no repercussions whatsoever.

HEWA WALE NO!

For these reasons I cannot find myself to agree to support this bill, and I ask those involved with the process of this bill to kill it and side with what is right for our community, which is the allowance of a transparent diligent process to continue, which allows our community to engage supporting/opposing a project.

Mahalo,

Bronson

SB-3103-SD-2

Submitted on: 6/21/2020 9:49:55 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sunny	Individual	Oppose	No

Comments:

Dear Chair Woodson, Vice Chair Hashem, and Members of the Lower and Higher Education Committee,

Please OPPOSE SB3103. While I support addressing our school facility needs, an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good. These laws keep our children safe, uphold the trust of taxpayers, and stop the outright desecration of all ancestral remains, Native Hawaiian or otherwise. Such a controversial measure should NOT be passed in light of the limited opportunity for public participation and dialogue over its final amended form. Please do not vote for its passage and HOLD SB3103 in committee. Mahalo for your time.

SB-3103-SD-2

Submitted on: 6/21/2020 11:22:21 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Becky Gardner	Individual	Oppose	No

Comments:

Dear Chair Woodson, Vice Chair Hashem, and Members of the Lower and Higher Education Committee,

Please OPPOSE SB3103. While I support addressing our school facility needs, an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good. These laws keep our children safe, uphold the trust of taxpayers, and stop the outright desecration of all ancestral remains, Native Hawaiian or otherwise. Such a controversial measure should NOT be passed in light of the limited opportunity for public participation and dialogue over its final amended form. Please do not vote for its passage and HOLD SB3103 in committee.

Thank you,
Becky Gardner

SB-3103-SD-2

Submitted on: 6/22/2020 3:55:37 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nanea Lo	Individual	Oppose	No

Comments:

Dear Chair Woodson, Vice Chair Hashem, and Members of the Lower and Higher Education Committee,

Please OPPOSE SB3103. While I support addressing our school facility needs, an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good. These laws keep our children safe, uphold the trust of taxpayers, and stop the outright desecration of all ancestral remains, Native Hawaiian or otherwise. Such a controversial measure should NOT be passed in light of the limited opportunity for public participation and dialogue over its final amended form. Please do not vote for its passage and HOLD SB3103 in committee.

Nanea Lo

SB-3103-SD-2

Submitted on: 6/22/2020 6:35:14 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Lacques	Individual	Oppose	No

Comments:

TO THE HOUSE OF REPRESENTATIVES
THE THIRTIETH LEGISLATURE
REGULAR SESSION OF 2020

COMMITTEE ON LOWER & HIGHER EDUCATION

Rep. Justin H. Woodson, Chair
Rep. Mark J. Hashem, Vice Chair
Rep. Sean Quinlan, Vice Chair

DATE: Tuesday, June 23, 2020

TIME: 1:00 P.M.

PLACE: Conference Room 325
State Capitol

415 South Beretania Street

HEARING SB 3103, SD2

RELATING TO: SCHOOL FACILITIES AGENCY

POSITION: **OPPOSE, SB 3103, SD2**

Though I support and advocate for improving our public-school facilities to meet 21st-century challenges and recognize the need for structural change, I cannot support this bill in its current form. This does not mean that the bill was not well-intentioned, nor the supporters are of this bill had ill-will. However, we must recognize the faults of this bill in its current form.

The bill in its current form provides for blanket exemptions to civil service law (HRS 76). This language conflicts with Article XVI, Section 1 of the Hawaii State Constitution, and state law which establish a merit-based system free from coercive political influences. I understand that certain administrators or management positions could be "at will," however I oppose denying employment protections for all other employees.

Furthermore, an additional language on page 2 of the bill is also of concern. In the bill states in section (b) "The projects of the agency should be exempt from chapters 6E, 37, 76, 103, 103D, and 343." Passage of this bill would exempt this new agency's projects from historic preservation (6E), Budget Allotment (37), Civil Service Law (76), Hawaii Public Procurement Code (103D), and environmental impact statements (343).

Thank you for both allowing for testimony on this matter and taking the time in reading my testimony in opposition to this bill.

Mahalo,

Ken Farm

SB-3103-SD-2

Submitted on: 6/22/2020 10:05:12 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Oppose	No

Comments:

Oppose.

DON'T weaken laws already in place; these laws were hard-fought by residents over the years and were not meant to be 'exempted' on legislator's whims.

SB-3103-SD-2

Submitted on: 6/20/2020 10:47:37 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Tina Taniguchi	Individual	Oppose	No

Comments:

No development, project government or not should be exempt from an environmental impact statement! We need to protect this land with all that we can! I have recently learned of a hieau that is or was on Kapaa High Schools campus. It hurts to know this history is erased! Its disgusting! The very location that we educate our children, is where we have stolen their history. Protections need to be in place and schools or any development needs to keep the land and wahi pana in mind beacuse it effects our land and people!

SB-3103-SD-2

Submitted on: 6/22/2020 10:19:24 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Donna Ambrose	Individual	Oppose	No

Comments:

I oppose creation of a new government bureaucracy, the School Facilities Agency. In recent years the DOE has improved processes for repairs and maintenance. They are moving in the right direction. The proposed entity would be exempt from environmental and historic protection rules and aspects of the sunshine laws. How will residents know what's going on in order to provide input in advance? If existing ordinances and laws are so onerous as to impede improvements to or redevelopment of DOE properties, better to take a deep dive into those rules. As proposed, this sounds like a gift to developers and construction companies. Please don't pass this bill.

SB-3103-SD-2

Submitted on: 6/22/2020 10:43:05 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Scott Fisher	Individual	Oppose	No

Comments:

Aloha e Chair Woodson, Vice Chair Hashem, and Members of the Lower and Higher Education Committee,

Please **HOLD** SB3103 SD2. While I support addressing our school facility needs, **an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good.** These laws keep our children safe, uphold the trust of taxpayers, and stop the outright desecration of all ancestral remains, Native Hawaiian or otherwise. Please do not vote for its passage.

Mahalo for your consideration of this request.

Aloha,

Scott Keli'i Fisher

SB-3103-SD-2

Submitted on: 6/22/2020 10:46:42 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Olan Leimomi Fisher	Individual	Oppose	No

Comments:

Aloha e Chair Woodson, Vice Chair Hashem, and Members of the Lower and Higher Education Committee,

Please **HOLD SB3103 SD2. While I support addressing our school facility needs, an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good.** These laws keep our children safe, uphold the trust of taxpayers, and stop the outright desecration of all ancestral remains, Native Hawaiian or otherwise. Please do not vote for its passage.

Mahalo for your consideration of this request.

Aloha nui,

Olan Leimomi Fisher

SB-3103-SD-2

Submitted on: 6/22/2020 10:56:41 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Momi Morgan	Individual	Oppose	No

Comments:

Aloha e Chair Woodson, Vice Chair Hashem, and Members of the Lower and Higher Education Committee,

Please **HOLD** SB3103 SD2. While I support addressing our school facility needs, an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good. These laws keep our children safe, uphold the trust of taxpayers, and stop the outright desecration of all ancestral remains, Native Hawaiian or otherwise. Please do not vote for its passage.

Mahalo for your consideration of this request.

SB-3103-SD-2

Submitted on: 6/22/2020 11:17:20 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Shelley Muneoka	Individual	Oppose	No

Comments:

Dear Chair Woodson, Vice Chair Hashem, and Members of the Lower and Higher Education Committee,

My name is Shelley Muneoka and I'm writing to you as a resident of He'eia on the island of O'ahu. In this particular social moment, I strongly feel that it is time to focus on things like education (as opposed to policing) and so agree with the importance of investing in our schools. However, this bill is dangerous, posing broad threats to cultural and natural resources of Hawai'i as well as burials. We should be able to make improvements to our schools within the parameters of environmental and historic preservation laws. This law would allow the skirting of many important protections, including those found in chapters 6E, 37, 76, 103, 103D, and 343.

There is nothing about a school development that inherently poses any less risk than another kind of building. Please OPPOSE sb3103 sd2.

Aloha,

Shelley

SB-3103-SD-2

Submitted on: 6/22/2020 11:44:39 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sara Tekula	Individual	Oppose	No

Comments:

I am NOT in favor of forming a "School Facilities Agency" for our Public Schools in Hawai'i, especially because according to how the bill is written, this agency would be exempt from historic preservation, environmental review, and public spending laws. This is a step in the wrong direction.

We can't let this happen - mindful preservation and environmental review are critically important to the future of our islands' natural and cultural resources.

SB-3103-SD-2

Submitted on: 6/22/2020 11:51:40 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Karina Maciel	Individual	Oppose	No

Comments:

Dear Chair Woodson, Vice Chair Hashem, and Members of the Lower and Higher Education Committee,

Please OPPOSE SB3103. While I support addressing our school facility needs, an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good. These laws keep our children safe, uphold the trust of taxpayers, and stop the outright desecration of all ancestral remains, Native Hawaiian or otherwise. Such a controversial measure should NOT be passed in light of the limited opportunity for public participation and dialogue over its final amended form. Please do not vote for its passage and HOLD SB3103 in committee.

Thank you,

Karina Maciel

SB-3103-SD-2

Submitted on: 6/22/2020 12:31:32 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Napua Casson	Individual	Oppose	No

Comments:

Dear Chair Woodson, Vice Chair Hashem, and Members of the Lower and Higher Education Committee,

Please OPPOSE SB3103. While I support addressing our school facility needs, an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good. These laws keep our children safe, uphold the trust of taxpayers, and stop the outright desecration of all ancestral remains, sites, Native Hawaiian or otherwise. Such a controversial measure should NOT be passed in light of the limited opportunity for public participation and dialogue over its final amended form. Please do not vote for its passage and HOLD SB3103 in committee.

Thank you,
Napua Casson

SB-3103-SD-2

Submitted on: 6/22/2020 7:00:38 PM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Diliaur Tellei	Individual	Oppose	No

Comments:

I oppose this bill and urge you to do also. Exempting the agency from Chapter 6E of the Hawaii Revised Statutes does not ensure adequate protection of historical or burial sites that may be worked on or discovered. As benign as a "School Facilities Agency" may purport to be in its activities, that is no excuse for an exemption which could endanger historical and burial sites. We already have seen human remains and other precious artifacts uncovered by myriad routine construction projects; thus, it would be best to err on the side of caution and not on the side of recklessness as outlined in this bill.

Thank you for your time.

Randolph G. Moore
2445-A Makiki Heights Drive
Honolulu Hawaii 96822

Telephone (808) 778-8832

email makikimoore@gmail.com

June 22, 2020

The Honorable Justin H. Woodson, Chair
and members of the Committee on Lower and Higher Education
House of Representatives
State Capitol
Honolulu, HI

Dear Representative Woodson and members of the Committee:

Subject: SB 3103, SD 2, relating to a school facilities agency

I encourage you to defer action on this bill, which would transfer the responsibility for planning, designing, and constructing school facilities from the Department of Education to a newly-created agency.

This bill would unwind the consolidation within the DOE of the planning, design, and construction of DOE facilities that occurred in 2005, pursuant to Act 51 of the 2004 legislature. Prior to this consolidation within DOE, some of these responsibilities were within DOE but most were within the Department of Accounting and General Services, and one of the consequences was a considerable amount of finger-pointing as to which entity was to “blame” for the sometimes-poor conditions of and sometimes-inadequate DOE facilities

SB 3103 SD 2 offers no identification of any problems with the planning, design and construction that the creation of a new agency would address or why a new agency would be better able to address any issues than the current structure.

Irrespective of which entity is responsible for the planning, design, and construction of school facilities, there does not appear to be any reason why a new agency would not suffer the same underfunding problems that have bedeviled DOE.

In the past, the legislature has created entities whose stated purpose was to facilitate the conversion of parts or all of some DOE campuses to other uses, either uses that would generate income or would provide affordable housing. If this is one of the purposes of the new agency proposed by SB 3103 SD 1, are there studies that examine why these previous efforts were not successful, and indicate that the proposed new agency would be more successful?

Mahalo for your consideration.

SB-3103-SD-2

Submitted on: 6/23/2020 7:34:28 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
MaryAnn Omerod	Individual	Oppose	No

Comments:

I OPPOSE SB3103 SD2. While I support addressing our school facility needs, an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good. These laws keep our children safe, uphold the trust of taxpayers, and stop the outright desecration of all ancestral remains, Native Hawaiian or otherwise.

SB-3103-SD-2

Submitted on: 6/23/2020 8:00:37 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Steven Thomas	Individual	Oppose	No

Comments:

Dear Chair Woodson, Vice-Chair Hashem, and Members of the Lower and Higher Education Committee,

Please stop SB3103 SD2. While I support addressing our school facility needs, an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good. These laws keep our children safe, uphold the trust of taxpayers, and stop the outright desecration of all ancestral remains, Native Hawaiian or otherwise. Please do not vote for its passage.

Thank you for your consideration of this request.

Signed,

â€‹Steven Thomas

SB-3103-SD-2

Submitted on: 6/23/2020 9:24:16 AM

Testimony for LHE on 6/23/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie K Akana	Individual	Oppose	No

Comments:

Dear Chair Woodson, Vice-Chair Hashem, and Members of the Lower and Higher Education Committee,

Please stop SB3103 SD2. I am a resident & voter of Honolulu. While I support addressing our school facility needs, an agency exempt from procurement, environmental, and historic preservation laws will invite far more harm than good. These laws keep our children safe, uphold the trust of taxpayers, and stop the outright desecration of all ancestral remains, Native Hawaiian or otherwise. Please do not vote for its passage. If this was your beloved culture & bloodline what would you do?

Thank you for your consideration of this request.

Signed,

Laurie K Akana