

STATE OF HAWAII
SCHOOL FACILITIES AUTHORITY
75 AUPUNI STREET, STE. BASEMENT
HILO, HAWAII 96720

March 17, 2023

**Testimony providing SUPPORT of SB832 SD2 HD1
RELATING TO EDUCATION**

REPRESENTATIVE JUSTIN WOODSON, CHAIR
HOUSE COMMITTEE ON EDUCATION

Hearing Date: 03/21/2023

Room Number 309

The School Facilities Authority (SFA) is in **support** of S.B. 832 SD2 HD1, RELATING TO EDUCATION.

The SFA is statutorily empowered to redevelop our schools into the 21st Century schools that our keiki deserve. This includes a variety of different opportunities such as vertical schools, teacher and workforce housing, and community services.

In looking at ways to find the maximum benefit for our keiki in our land assets, the SFA appreciates the Legislature's consideration of additional powers and authority to facilitate this. As we look to tackle additional issues such as teacher housing, we are finding that the majority of our schools are improperly zoned for such development.

The SFA appreciates the Legislature's continued commitment to ensuring that title of lands that schools sit on transfers in a timely and efficient manner. Land control is an important component in being able to effectuate the work being asked of the SFA.

The SFA also appreciates the consideration of an additional authority to allow us to partner with other State agencies to effectuate some of this work. Examples of State partners include the Department of Education, Hawaii Public Housing Authority, and Hawaii Housing Finance and Development Corporation.

Thank you for the opportunity to provide testimony.

JOSH GREEN, M.D.
GOVERNOR



LUIS P. SALAVERIA
DIRECTOR

SABRINA NASIR
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
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WRITTEN ONLY

TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON EDUCATION
ON
SENATE BILL NO. 832, S.D. 2, H.D. 1

March 21, 2023

2:10 p.m.

Room 309 and Videoconference

RELATING TO EDUCATION

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 832, S.D. 2, H.D. 1: 1) authorizes the counties to transfer land to the School Facilities Authority (SFA); 2) exempts the SFA from certain assessments and taxes; 3) authorizes State and county agencies to render services to the SFA upon request; 4) allows the SFA to adopt rules that supersede all other inconsistent ordinances and rules related to the zoning of land and construction; 5) authorizes the SFA to engage in commercial enterprise activities for the purpose of revenue generation; 6) authorizes the SFA to contract to manage the leasing and property management of housing projects; and 7) establishes an undetermined deadline for the transfer of properties to the Department of Education from the City and County of Honolulu required by Act 272, SLH 2019.

It should be noted that a large majority of school facilities were funded by tax-exempt general obligation bonds. Because tax-exempt bonds were utilized, there are Internal Revenue Code restrictions on private activity uses of these school facilities. For that reason, B&F strongly recommends that the commercial activity provision be removed from this bill, or at the very least, an amendment be added to require B&F approval of any commercial activities being undertaken by the SFA.

Thank you for your consideration of our comments.

DEPARTMENT OF LAND MANAGEMENT
CITY AND COUNTY OF HONOLULU

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March 20, 2023

The Honorable Justin H. Woodson, Chair
The Honorable Lisa Marten, Vice Chair
and Members of the Committee on Education
House of Representatives
Hawaii State Capitol, Conference Room 309
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chairs and Members:

SUBJECT: S.B. No. 832, S.D.2, HD1
Relating to Education

The City and County Department of Land Management ("**DLM**") provides the following comments on S.B. No. 832, SD2, HD1.

The Legislature previously mandated the transfer of the fourteen (14) high school properties identified in SB832, SD2, HD1 (each, a "**Property**" and together, the "**Properties**") from the City and County of Honolulu (the "**City**") to the School Facilities Authority ("**SFA**").

Because the Properties are currently owned by the City, when placing infrastructure and utilities in the Properties, the City did not survey and subdivide easements to grant to itself. Because the fee interest to the Properties will be transferred to the SFA, however, the City must complete these actions prior to the transfer while it has unity of title, and to ensure that its interests are properly documented and reserved. Transferring the Properties without reserving the proper easements may jeopardize the functionality of the infrastructure and utilities, which may impact larger systems and delivery of critical services to the community. This is particularly true because the potential redevelopment and intensified use of the Properties.

Each Property conveyance is unique and requires a significant amount of (1) time, (2) financial resources, and (3) staff resources to review. DLM therefore has concerns with the proposed language in SB832, SD2, HD1 to set a deadline uniformed by the resources and funding required to complete the transfer as quickly as possible.

1. Timing.

Regarding timing, the concern is that, on a best-case scenario basis, it would take several years to initiate and complete each Property conveyance from the City to the State.

This includes no protracted negotiations with the SFA regarding the Property, and no unknown big complicating factors. This timeline includes the following:

- a. Identification of Assets. Following the enactment of Act 210, DLM surveyed each City department to determine what assets, including infrastructure and utilities, the departments may have in each Property. The responses were varied; some departments knew the locations of the assets, and some departments knew only generally that assets were present. In the case of the latter, there is potentially significant amount of work to be done by the departments to identify their assets. Assuming there are no complications, this process will probably take approximately 6- to 12-months, depending on staff availability, knowledge, and record-keeping.

For Properties that are located adjacent to parks, the process is further complicated by the need to determine the boundary between the park and the schools. DLM has engaged with the Department of Parks and Recreation (“DPR”) to assist with this determination, and DPR staff have engaged with certain Department of Education (“DOE”) staff in furtherance of this determination. This process can be heavily negotiated, which may require many months of negotiations before the determination is made. For purposes of this timeline, and based on existing DPR/DOE negotiations, we will estimate that this is a 6- to 9-month process.

- b. Procurement. Performance of the surveys and submittal of the subdivision applications would require the City to procure and engage consultants through the procurement process. Assuming there are no complications, feedback from other departments indicate that this is a 3- to 6-month process.
- c. Survey. Time required for this item will vary from Property to Property, depending upon the size and complexity of the Property and the identified assets. Assuming there are no complications, feedback from other departments indicate that this is a 6-to 12-month process.
- d. Subdivision. Time required for this item will vary from Property to Property, depending upon the complexity. Assuming there are no complications, feedback from other departments indicate that this is a 9- to 12-month process.
- e. Land Court. If applicable, the subdivided easements will need to be filed in the Land Court. Assuming there are no complications, feedback and recent filings indicate that could be a 12- to 18-month process.
- f. Documentation. It is DLM's understanding that the Department of Attorney General and the Department of the Corporation Counsel have previously negotiated, but have not agreed upon, a form of conveyance document. This

conveyance document would need to be tailored for each Property conveyance, and contain appropriate reservations relating to the known assets. Assuming there are no complications, feedback from other departments indicate that this is a 1-2- month process.

- g. Closing. Execution and recordation of the conveyance document and all accompanying closing documents will take approximately 1-month, as the conveyance packet will need to be approved by various departments and ultimately recorded/filed in the Bureau of Conveyances/Land Court, as appropriate.
- h. Land Court. If applicable, the conveyance documents will need to be filed in the Land Court. Assuming there are no complications, feedback indicates that could be a 12- to 18-month process.

Because many of these processes are fact-specific, and there is no singular responsible entity that can control varying processing and processing timelines, DLM recommends against imposition of any timeline. This will give the City and SFA the requisite amount of time to protect existing assets, and to best position the Properties for future development.

2. Funding.

The larger issue is the lack of funding. When Acts 206 (2017) and 210 (2018) were passed by the Legislature, they were unfunded mandates. Because the Properties are operated by the DOE, the City does not budget any monies or staff towards the Properties. The City therefore does not have any funding to support the aforementioned projects. This is a material hindrance in the performance of the land conveyances. In aggregate, the conveyance of the Properties may take hundreds of thousands of dollars, which the City does not (and cannot) program towards the Properties because they are under the jurisdiction and control of the DOE.

While the Legislature did grant the prior City Administration a Grant-In-Aid related to Acts 206 and 210, the amount was insufficient to fund performance of the required tasks, particularly given then the extremely large number of schools identified to be transferred. The mandates cannot be met without additional supplemental funding allocated for this endeavor. Without such appropriations, and because the City cannot leverage capital monies towards properties that are not public improvements of the City, the City's ability to undertake the required actions to effectuate the transfer is severely impacted.

3. Staffing.

Like most employers in a post-COVID world, the City struggles with attracting and retaining skilled employees; DLM is certainly not exempt from that struggle. We are a small department and are responsible to protect, develop, and manage the City's real property

The Honorable Justin H. Woodson, Chair
The Honorable Lisa Marten, Vice Chair
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March 20, 2023
Page 4

interests. Our limited resources are strategically allocated to address priorities that impact City land, including affordable housing and homelessness.

Notwithstanding the foregoing, the City and DLM are committed to supporting education and early childhood education. The City has hired Ted Burke, its Childhood Resource Coordinator, who is working with the Lieutenant Governor and the SFA on various issues, including the mandated transfers of the Properties. Further, DLM has made strides as aforementioned, including in-depth departmental surveys of inventory/assets, preparation of title reports, and prior correspondence/meetings with the DOE regarding known encroachments and shared use agreements.

In summary, each Property conveyance is unique and requires a significant amount of (1) time, (2) funding, and (3) staff to perform and complete the mandated transfers. DLM therefore has concerns with the proposed language in SB832, SD2, HD1 to set an arbitrary deadline by which the unfunded conveyances have to be completed.


Thank you for the opportunity to testify on this measure. If you have any questions, please contact me by telephone at (808) 768-4271 or by email at c.taschner@honolulu.gov.

Sincerely,



Catherine A. Taschner
Deputy Director

APPROVED:



Michael D. Formby
Managing Director