

JAN 24 2024

A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1 PART I

2 SECTION 1. Section 26-12, Hawaii Revised Statutes, is
3 amended to read as follows:

4 "§26-12 Department of education. (a) The department of
5 education shall be headed by an executive board to be known as
6 the board of education.

7 (b) Under policies established by the board, the
8 superintendent shall administer programs of education and public
9 instruction throughout the State, including education at the
10 primary and secondary school levels, adult education, school
11 library services, health education and instruction (not
12 including dental health treatment transferred to the department
13 of health), special education and Title I funded programs at the
14 prekindergarten level, and [~~such~~] other programs as may be
15 established by law; provided that the department shall not
16 establish general education prekindergarten classrooms,
17 including private partnership-funded classrooms and classrooms



1 to provide general education settings for children whose
2 individualized education programs require [~~such~~] placement;
3 provided further that the department may:

4 (1) Establish Title I-funded prekindergarten classrooms;
5 and

6 (2) Directly accept private funding for the purpose of
7 establishing public prekindergarten programs; provided
8 further that:

9 (A) The department shall comply with section 302L-7;

10 (B) The department and the executive office on early
11 learning shall sign a bilateral memorandum of
12 agreement or understanding; and

13 (C) The department, the executive office on early
14 learning, and the person or entity providing the
15 private funding may sign a multilateral
16 memorandum of agreement or understanding.

17 (c) If the private funding provided is insufficient to
18 maintain the classroom operations of a public prekindergarten
19 program established pursuant to subsection (b) (2), the
20 department and executive office on early learning shall be



1 prohibited from requesting additional funding from the
2 legislature to pay for the remaining costs.

3 (d) The department shall collaborate with the executive
4 office on early learning to coordinate services for children who
5 are placed through their individualized education programs in a
6 general education prekindergarten setting in a classroom offered
7 by the executive office on early learning public prekindergarten
8 program. Under policies established by the early learning
9 board, the executive office on early learning shall have
10 administrative authority over all state-funded prekindergarten
11 programs, and private partnership-funded prekindergarten
12 programs in the public schools, except for special education and
13 Title I-funded prekindergarten programs. The state librarian,
14 under policies established by the board of education, shall be
15 responsible for the administration of programs relating to
16 public library services and transcribing services for the blind.

17 (e) The functions and authority exercised by the
18 department relating to state-funded prekindergarten programs,
19 private partnership-funded prekindergarten programs in the
20 public schools, and classrooms to provide general education



1 settings for children whose individualized education programs
2 require [~~such~~] placement, except for special education and Title
3 I-funded prekindergarten programs, shall be transferred to the
4 executive office on early learning; provided that the department
5 shall continue to provide, and have administrative authority
6 over:

7 (1) Services generally provided to the schools, excluding
8 those services related to curriculum, instruction,
9 assessment, and professional learning support, for any
10 facility on a department school campus at which the
11 executive office on early learning administers
12 programs; and

13 (2) Public prekindergarten programs established pursuant
14 to subsection (b) (2).

15 (f) The functions and authority heretofore exercised by
16 the department of education (except dental health treatment
17 transferred to the department of health), library of Hawaii,
18 Hawaii county library, Maui county library, and the transcribing
19 services program of the bureau of sight conservation and work



1 with the blind, as heretofore constituted are transferred to the
2 public library system established by this chapter.

3 (g) The management contract between the board of
4 supervisors of the county of Kauai and the Kauai public library
5 association shall be terminated at the earliest time after
6 November 25, 1959, permissible under the terms of the contract
7 and the provisions of this subsection shall constitute notice of
8 termination, and the functions and authority heretofore
9 exercised by the Kauai county library as heretofore constituted
10 and the Kauai public library association over the public
11 libraries in the county of Kauai shall thereupon be transferred
12 to the public library system established by this chapter.

13 (h) The management contracts between the trustees of the
14 library of Hawaii and the Friends of the Library of Hawaii, and
15 between the library of Hawaii and the Hilo library and reading
16 room association, shall be terminated at the earliest time after
17 November 25, 1959, permissible under the terms of the contracts,
18 and the provisions of this subsection shall constitute notice of
19 termination.



1 (i) Upon the termination of the contracts, the State or
2 the counties shall not enter into any library management
3 contracts with any private association; provided that in
4 providing library services, the board of education may enter
5 into contracts approved by the governor for the use of lands,
6 buildings, equipment, and facilities owned by any private
7 association.

8 (j) Notwithstanding any law to the contrary, the board of
9 education may establish, specify the membership number and
10 quorum requirements for, appoint members to, and disestablish a
11 commission in each county to be known as the library advisory
12 commission, which shall in each case sit in an advisory capacity
13 to the board of education on matters relating to public library
14 services in their respective county.

15 (k) The department shall establish, maintain, and operate
16 the public education facilities of the State, including public
17 schools and other educational facilities authorized by law. The
18 department may enter into service-level agreements, memoranda of
19 agreement, or memoranda of understanding with other departments



1 for these responsibilities if the agreement or understanding is
2 beneficial for the State."

3 SECTION 2. Section 302A-1111, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) Under policies established by the board, the
6 superintendent shall be designated as the chief executive
7 officer of the public school system having jurisdiction over the
8 internal organization, operation, and management of the public
9 school system, as provided by law; and shall administer programs
10 of education and public instruction throughout the State,
11 including education at the primary and secondary school levels,
12 the superintendence and management of the internal improvements
13 of the public education facilities of the State, and [such]
14 other programs as may be established by law; provided that all
15 state-funded prekindergarten programs, and private partnership-
16 funded prekindergarten programs in the public schools, except
17 for special education and Title I-funded prekindergarten
18 programs, shall be under the administrative authority of the
19 executive office on early learning; provided further that the
20 department shall continue to provide, and have administrative



1 authority over, services generally provided to the schools
2 excluding those services related to curriculum, instruction,
3 assessment, and professional learning support, for any facility
4 on a department school campus at which the executive office on
5 early learning administers programs."

6 PART II

7 SECTION 3. Chapter 302A, Hawaii Revised Statutes, is
8 amended by adding two new sections to part VI, subpart A, to be
9 appropriately designated and to read as follows:

10 "§302A-A Separation of facilities and operations. (a)

11 There is established within the department:

12 (1) The office of facilities and real estate development;

13 and

14 (2) The office of school operations and services.

15 (b) The office of facilities and real estate development

16 shall be responsible for the development, construction, repairs,

17 maintenance, and other activities necessary for public education

18 facilities as authorized by law or deemed necessary by board

19 policy.



1 The head of the office of facilities and real estate
2 development shall be known as the assistant superintendent of
3 facilities and real estate development. The superintendent
4 shall appoint the assistant superintendent of facilities and
5 real estate development and a secretary, who shall be exempt
6 from chapter 76. The assistant superintendent of facilities and
7 real estate development and secretary may be removed by the
8 superintendent.

9 (c) The office of school operations and services shall be
10 responsible for service operations including school meals,
11 transportation, and other activities as may be required by law
12 or deemed necessary by board policy.

13 "**§302A-B Office of facilities and real estate development;**
14 **powers.** Except as otherwise limited by this chapter and upon
15 approval by the board, the office of facilities and real estate
16 development may:

17 (1) Acquire or contract to acquire by grant or purchase
18 real, personal, or mixed property or any interest
19 therein; to clear, improve, rehabilitate; and to sell,



- 1 assign, exchange, transfer, convey, lease, subdivide,
2 or otherwise dispose of or encumber the same;
- 3 (2) Acquire property by condemnation pursuant to chapter
4 101;
- 5 (3) Enter into partnerships with qualified persons,
6 including public-private partnerships, as defined in
7 the department's rules, to acquire, construct,
8 reconstruct, rehabilitate, improve, alter, or provide
9 for the construction, reconstruction, improvement, or
10 alteration of any project, including prekindergarten
11 facilities; and sell, assign, transfer, convey,
12 exchange, lease, or otherwise dispose of or encumber
13 any project; and in the case of the sale of any
14 project, accept a purchase money mortgage in
15 connection therewith;
- 16 (4) Grant options to acquire any project or to renew any
17 lease entered into by the office in connection with
18 any of its projects, on terms and conditions as it
19 deems advisable;



1 SECTION 4. Chapter 302A, Hawaii Revised Statutes, is
2 amended by adding a new section to part VI, subpart A, to be
3 appropriately designated and to read as follows:

4 "§302A-C Educational facilities and real estate
5 development special fund. (a) There is established within the
6 state treasury a special fund to be known as the educational
7 facilities and real estate development special fund into which
8 shall be deposited:

9 (1) All moneys appropriated or transferred by the
10 legislature or counties for deposit into the special
11 fund;

12 (2) Any moneys received by the department in the form of a
13 grant, gift, endowment, or donation for the
14 development, planning, or construction of new
15 educational facilities or major renovations of
16 educational facilities; and

17 (3) All other moneys received by the department and not
18 deposited into a trust fund or trust account,
19 including unrestricted grants, gifts, and donations;
20 proceeds from sales of property; rents and other



1 receipts from leases, rights of entry, and the like;
2 and interest, refunds, and other receipts and
3 payments.

4 (b) The department shall establish and appropriately name
5 subaccounts within the educational facilities and real estate
6 development special fund to accept deposits of revenue from
7 school impact fees that are required to be expended within a
8 specific school impact district pursuant to section 302A-1608(a)
9 or restricted for a specified purpose pursuant to part V,
10 subpart B, of this chapter.

11 (c) The educational facilities and real estate development
12 special fund shall be administered by the department and used to
13 fund any school development, planning, or construction project,
14 including prekindergarten facilities, within the jurisdiction of
15 the department.

16 (d) Subject to chapter 84, notwithstanding any other law
17 to the contrary, the governor may authorize expenditures from
18 the educational facilities and real estate development special
19 fund of any donation, grant, bequest, and devise of money from
20 any private institution, person, firm, or corporation for the



1 purposes of funding the salaries of the department. If all or
2 any portion of any salary of the department or any officer,
3 agent, or employee of the department is funded pursuant to this
4 subsection, the department shall submit a report to the
5 legislature detailing the use of any funds authorized under this
6 subsection no later than twenty days prior to the convening of
7 the next regular session following the expenditure
8 authorization.

9 (e) The department shall submit to the director of finance
10 a report that shall be prepared in the form prescribed by the
11 director of finance and shall identify the total amount of funds
12 in the educational facilities and real estate development
13 special fund that will carry over to the next fiscal year. The
14 department shall submit the report to the director of finance
15 and the legislature within ninety days of the close of each
16 fiscal year.

17 (f) Within the educational facilities and real estate
18 development special fund there shall be established accounts and
19 subaccounts as may be necessary from time to time to ensure
20 compliance with the Internal Revenue Code, as amended."



1 PART IV

2 SECTION 5. (a) In addition to the responsibilities set
3 forth in section 302A-A, Hawaii Revised Statutes, the office of
4 facilities and real estate development shall include:

- 5 (1) The branches of facilities development and facilities
6 maintenance as identified in the 2022 department of
7 education organizational chart;
- 8 (2) The school support program, previously under the
9 auxiliary services branch;
- 10 (3) The project control section;
- 11 (4) The environmental services unit; and
- 12 (5) The safety, security, and emergency preparedness
13 branch.

14 (b) In addition to the responsibilities set forth in
15 section 302A-A, Hawaii Revised Statutes, the office of school
16 operations and services shall include:

- 17 (1) School transportation and school services as
18 identified in the 2022 department of education
19 organization chart;
- 20 (2) The school food services branch; and



1 (3) The reprographic section within the auxiliary services
2 branch.

3 (c) The board of education shall act on the reorganization
4 of the office of facilities and real estate development and the
5 office of school operations and services no later than August
6 2024.

7 (d) The board of education shall approve a reorganization
8 of the office of facilities and real estate development and the
9 office of school operations and services no later than September
10 2024.

11 SECTION 6. All rights, powers, functions, and duties of
12 the school facilities authority are transferred to the
13 department of education.

14 SECTION 7. All appropriations, records, equipment,
15 machines, files, supplies, contracts, books, papers, documents,
16 maps, and other personal property heretofore made, used,
17 acquired, or held by the school facilities authority relating to
18 the functions transferred to the department of education shall
19 be transferred with the functions to which they relate.



1 SECTION 8. All rules, policies, procedures, guidelines,
2 and other material adopted or developed by the school facilities
3 authority to implement provisions of the Hawaii Revised Statutes
4 that are made reenacted or applicable to the department of
5 education by this Act shall remain in full force and effect
6 until amended or repealed by the board of education pursuant to
7 chapter 91, Hawaii Revised Statutes.

8 In the interim, every reference to the school facilities
9 authority or the school facilities authority board in those
10 rules, policies, procedures, guidelines, and other material is
11 amended to refer to the department of education and the board of
12 education, as appropriate.

13 SECTION 9. All deeds, leases, contracts, loans,
14 agreements, permits, or other documents executed or entered into
15 by or on behalf of the school facilities authority, pursuant to
16 the provisions of the Hawaii Revised Statutes, that are
17 reenacted or made applicable to the department of education by
18 this Act shall remain in full force and effect. Upon effective
19 date of this Act, every reference to the school facilities
20 authority or the executive director of the school facilities



1 authority therein shall be construed as a reference of the
2 department of education or the superintendent of education, as
3 appropriate.

4 PART V

5 SECTION 10. Section 28-8.3, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) No department of the State other than the attorney
8 general may employ or retain any attorney, by contract or
9 otherwise, for the purpose of representing the State or the
10 department in any litigation, rendering legal counsel to the
11 department, or drafting legal documents for the department;
12 provided that the foregoing provision shall not apply to the
13 employment or retention of attorneys:

14 (1) By the public utilities commission, the labor and
15 industrial relations appeals board, and the Hawaii
16 labor relations board;

17 (2) By any court or judicial or legislative office of the
18 State; provided that if the attorney general is
19 requested to provide representation to a court or
20 judicial office by the chief justice or the chief



1 justice's designee, or to a legislative office by the
2 speaker of the house of representatives and the
3 president of the senate jointly, and the attorney
4 general declines to provide [such] representation on
5 the grounds of conflict of interest, the attorney
6 general shall retain an attorney for the court,
7 judicial, or legislative office, subject to approval
8 by the court, judicial, or legislative office;

9 (3) By the legislative reference bureau;

10 (4) By any compilation commission that may be constituted
11 from time to time;

12 (5) By the real estate commission for any action involving
13 the real estate recovery fund;

14 (6) By the contractors license board for any action
15 involving the contractors recovery fund;

16 (7) By the office of Hawaiian affairs;

17 (8) By the department of commerce and consumer affairs for
18 the enforcement of violations of chapters 480 and
19 485A;

20 (9) As grand jury counsel;



- 1 (10) By the Hawaii health systems corporation, or its
- 2 regional system boards, or any of their facilities;
- 3 (11) By the auditor;
- 4 (12) By the office of ombudsman;
- 5 (13) By the insurance division;
- 6 (14) By the University of Hawaii;
- 7 (15) By the Kahoolawe island reserve commission;
- 8 (16) By the division of consumer advocacy;
- 9 (17) By the office of elections;
- 10 (18) By the campaign spending commission;
- 11 (19) By the Hawaii tourism authority, as provided in
- 12 section 201B-2.5;
- 13 (20) By the division of financial institutions;
- 14 (21) By the office of information practices;
- 15 ~~[(22) By the school facilities authority;~~
- 16 ~~-(23)]~~ (22) By the Mauna Kea stewardship and oversight
- 17 authority; or
- 18 ~~[(24)]~~ (23) By a department, if the attorney general, for
- 19 reasons deemed by the attorney general to be good and
- 20 sufficient, declines to employ or retain an attorney



1 for a department; provided that the governor waives
2 the provision of this section."

3 SECTION 11. Section 76-16, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) The civil service to which this chapter applies shall
6 comprise all positions in the State now existing or hereafter
7 established and embrace all personal services performed for the
8 State, except the following:

9 (1) Commissioned and enlisted personnel of the Hawaii
10 National Guard [~~as such~~], and positions in the Hawaii
11 National Guard that are required by state or federal
12 laws or regulations or orders of the National Guard to
13 be filled from those commissioned or enlisted
14 personnel;

15 (2) Positions filled by persons employed by contract where
16 the director of human resources development has
17 certified that the service is special or unique or is
18 essential to the public interest and that, because of
19 circumstances surrounding its fulfillment, personnel
20 to perform the service cannot be obtained through



1 normal civil service recruitment procedures. Any
2 [~~such contract may be for any period not exceeding~~]
3 contract under this paragraph shall not exceed one
4 year;

5 (3) Positions that must be filled without delay to comply
6 with a court order or decree if the director
7 determines that recruitment through normal recruitment
8 civil service procedures would result in delay or
9 noncompliance, such as the Felix-Cayetano consent
10 decree;

11 (4) Positions filled by the legislature or by either house
12 or any committee thereof;

13 (5) Employees in the office of the governor and office of
14 the lieutenant governor, and household employees at
15 Washington Place;

16 (6) Positions filled by popular vote;

17 (7) Department heads, officers, and members of any board,
18 commission, or other state agency whose appointments
19 are made by the governor or are required by law to be
20 confirmed by the senate;



- 1 (8) Judges, referees, receivers, masters, jurors, notaries
2 public, land court examiners, court commissioners, and
3 attorneys appointed by a state court for a special
4 temporary service;
- 5 (9) One bailiff for the chief justice of the supreme court
6 who shall have the powers and duties of a court
7 officer and bailiff under section 606-14; one
8 secretary or clerk for each justice of the supreme
9 court, each judge of the intermediate appellate court,
10 and each judge of the circuit court; one secretary for
11 the judicial council; one deputy administrative
12 director of the courts; three law clerks for the chief
13 justice of the supreme court, two law clerks for each
14 associate justice of the supreme court and each judge
15 of the intermediate appellate court, one law clerk for
16 each judge of the circuit court, two additional law
17 clerks for the civil administrative judge of the
18 circuit court of the first circuit, two additional law
19 clerks for the criminal administrative judge of the
20 circuit court of the first circuit, one additional law



1 clerk for the senior judge of the family court of the
2 first circuit, two additional law clerks for the civil
3 motions judge of the circuit court of the first
4 circuit, two additional law clerks for the criminal
5 motions judge of the circuit court of the first
6 circuit, and two law clerks for the administrative
7 judge of the district court of the first circuit; and
8 one private secretary for the administrative director
9 of the courts, the deputy administrative director of
10 the courts, each department head, each deputy or first
11 assistant, and each additional deputy, or assistant
12 deputy, or assistant defined in paragraph (16);
13 (10) First deputy and deputy attorneys general, the
14 administrative services manager of the department of
15 the attorney general, one secretary for the
16 administrative services manager, an administrator and
17 any support staff for the criminal and juvenile
18 justice resources coordination functions, and law
19 clerks;



- 1 (11) (A) Teachers, principals, vice-principals, complex
2 area superintendents, deputy and assistant
3 superintendents, other certificated personnel, no
4 more than twenty noncertificated administrative,
5 professional, and technical personnel not engaged
6 in instructional work;
- 7 (B) Effective July 1, 2003, teaching assistants,
8 educational assistants, bilingual/bicultural
9 school-home assistants, school psychologists,
10 psychological examiners, speech pathologists,
11 athletic health care trainers, alternative school
12 work study assistants, alternative school
13 educational/supportive services specialists,
14 alternative school project coordinators, and
15 communications aides in the department of
16 education;
- 17 (C) The special assistant to the state librarian and
18 one secretary for the special assistant to the
19 state librarian; and



- 1 (D) Members of the faculty of the University of
2 Hawaii, including research workers, extension
3 agents, personnel engaged in instructional work,
4 and administrative, professional, and technical
5 personnel of the university;
- 6 (12) Employees engaged in special, research, or
7 demonstration projects approved by the governor;
- 8 (13) (A) Positions filled by inmates, patients of state
9 institutions, persons with severe physical or
10 mental disabilities participating in the work
11 experience training programs;
- 12 (B) Positions filled with students in accordance with
13 guidelines for established state employment
14 programs; and
- 15 (C) Positions that provide work experience training
16 or temporary public service employment that are
17 filled by persons entering the workforce or
18 persons transitioning into other careers under
19 programs such as the federal Workforce Investment
20 Act of 1998, as amended, or the Senior Community



1 Service Employment Program of the Employment and
2 Training Administration of the United States
3 Department of Labor, or under other similar state
4 programs;

5 (14) A custodian or guide at Iolani Palace, the Royal
6 Mausoleum, and Hulihee Palace;

7 (15) Positions filled by persons employed on a fee,
8 contract, or piecework basis, who may lawfully perform
9 their duties concurrently with their private business
10 or profession or other private employment and whose
11 duties require only a portion of their time, if it is
12 impracticable to ascertain or anticipate the portion
13 of time to be devoted to the service of the State;

14 (16) Positions of first deputies or first assistants of
15 each department head appointed under or in the manner
16 provided in section 6, article V, of the Hawaii State
17 Constitution; three additional deputies or assistants
18 either in charge of the highways, harbors, and
19 airports divisions or other functions within the
20 department of transportation as may be assigned by the



1 director of transportation, with the approval of the
2 governor; one additional deputy in the department of
3 human services either in charge of welfare or other
4 functions within the department as may be assigned by
5 the director of human services; four additional
6 deputies in the department of health, each in charge
7 of one of the following: behavioral health,
8 environmental health, hospitals, and health resources
9 administration, including other functions within the
10 department as may be assigned by the director of
11 health, with the approval of the governor; two
12 additional deputies in charge of the law enforcement
13 programs, administration, or other functions within
14 the department of law enforcement as may be assigned
15 by the director of law enforcement, with the approval
16 of the governor; three additional deputies each in
17 charge of the correctional institutions,
18 rehabilitation services and programs, and
19 administration or other functions within the
20 department of corrections and rehabilitation as may be



1 assigned by the director or corrections and
2 rehabilitation, with the approval of the governor; an
3 administrative assistant to the state librarian; and
4 an administrative assistant to the superintendent of
5 education;

6 (17) Positions specifically exempted from this part by any
7 other law; provided that:

8 (A) Any exemption created after July 1, 2014, shall
9 expire three years after its enactment unless
10 affirmatively extended by an act of the
11 legislature; and

12 (B) All of the positions defined by paragraph (9)
13 shall be included in the position classification
14 plan;

15 (18) Positions in the state foster grandparent program and
16 positions for temporary employment of senior citizens
17 in occupations in which there is a severe personnel
18 shortage or in special projects;

19 (19) Household employees at the official residence of the
20 president of the University of Hawaii;



- 1 (20) Employees in the department of education engaged in
2 the supervision of students during meal periods in the
3 distribution, collection, and counting of meal
4 tickets, and in the cleaning of classrooms after
5 school hours on a less than half-time basis;
- 6 (21) Employees hired under the tenant hire program of the
7 Hawaii public housing authority; provided that not
8 more than twenty-six per cent of the authority's
9 workforce in any housing project maintained or
10 operated by the authority shall be hired under the
11 tenant hire program;
- 12 (22) Positions of the federally funded expanded food and
13 nutrition program of the University of Hawaii that
14 require the hiring of nutrition program assistants who
15 live in the areas they serve;
- 16 (23) Positions filled by persons with severe disabilities
17 who are certified by the state vocational
18 rehabilitation office that they are able to perform
19 safely the duties of the positions;
- 20 (24) The sheriff;



- 1 (25) A gender and other fairness coordinator hired by the
- 2 judiciary;
- 3 (26) Positions in the Hawaii National Guard youth and adult
- 4 education programs;
- 5 (27) In the state energy office in the department of
- 6 business, economic development, and tourism, all
- 7 energy program managers, energy program specialists,
- 8 energy program assistants, and energy analysts;
- 9 (28) Administrative appeals hearing officers in the
- 10 department of human services;
- 11 (29) In the Med-QUEST division of the department of human
- 12 services, the division administrator, finance officer,
- 13 health care services branch administrator, medical
- 14 director, and clinical standards administrator;
- 15 (30) In the director's office of the department of human
- 16 services, the enterprise officer, information security
- 17 and privacy compliance officer, security and privacy
- 18 compliance engineer, security and privacy compliance
- 19 analyst, information technology implementation
- 20 manager, assistant information technology



1 implementation manager, resource manager,
 2 community/project development director, policy
 3 director, special assistant to the director, and
 4 limited English proficiency project
 5 manager/coordinator;

6 (31) The Alzheimer's disease and related dementia services
 7 coordinator in the executive office on aging;

8 (32) In the Hawaii emergency management agency, the
 9 executive officer, public information officer, civil
 10 defense administrative officer, branch chiefs, and
 11 emergency operations center state warning point
 12 personnel; provided that for state warning point
 13 personnel, the director shall determine that
 14 recruitment through normal civil service recruitment
 15 procedures would result in delay or noncompliance;

16 [~~(33)~~ ~~The executive director and seven full-time~~
 17 ~~administrative positions of the school facilities~~
 18 ~~authority;~~

19 ~~(34)]~~ (33) Positions in the Mauna Kea stewardship and
 20 oversight authority;



1 [~~(35)~~] (34) In the office of homeland security of the
2 department of law enforcement, the statewide
3 interoperable communications coordinator; and
4 [~~(36)~~] (35) In the social services division of the
5 department of human services, the business technology
6 analyst.

7 The director shall determine the applicability of this
8 section to specific positions.

9 Nothing in this section shall be deemed to affect the civil
10 service status of any incumbent as it existed on July 1, 1955."

11 SECTION 12. Section 171-2, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§171-2 Definition of public lands.** "Public lands" means
14 all lands or interest therein in the State classed as government
15 or crown lands previous to August 15, 1895, or acquired or
16 reserved by the government upon or subsequent to that date by
17 purchase, exchange, escheat, or the exercise of the right of
18 eminent domain, or in any other manner; including lands accreted
19 after May 20, 2003, and not otherwise awarded, submerged lands,
20 and lands beneath tidal waters that are suitable for



1 reclamation, together with reclaimed lands that have been given
2 the status of public lands under this chapter, except:

3 (1) Lands designated in section 203 of the Hawaiian Homes
4 Commission Act, 1920, as amended;

5 (2) Lands set aside pursuant to law for the use of the
6 United States;

7 (3) Lands being used for roads and streets;

8 (4) Lands to which the United States relinquished the
9 absolute fee and ownership under section 91 of the
10 Hawaiian Organic Act before the admission of Hawaii as
11 a state of the United States unless subsequently
12 placed under the control of the board of land and
13 natural resources and given the status of public lands
14 in accordance with the state constitution, the
15 Hawaiian Homes Commission Act, 1920, as amended, or
16 other laws;

17 (5) Lands to which the University of Hawaii holds title;

18 (6) Non-ceded lands set aside by the governor to the
19 Hawaii housing finance and development corporation or
20 lands to which the Hawaii housing finance and



- 1 development corporation in its corporate capacity
2 holds title;
- 3 (7) Lands to which the Hawaii community development
4 authority in its corporate capacity holds title;
- 5 (8) Lands set aside by the governor to the Hawaii public
6 housing authority or lands to which the Hawaii public
7 housing authority in its corporate capacity holds
8 title;
- 9 (9) Lands to which the department of agriculture holds
10 title by way of foreclosure, voluntary surrender, or
11 otherwise, to recover moneys loaned or to recover
12 debts otherwise owed the department under chapter 167;
- 13 (10) Lands that are set aside by the governor to the Aloha
14 Tower development corporation, lands leased to the
15 Aloha Tower development corporation by any department
16 or agency of the State, or lands to which the Aloha
17 Tower development corporation holds title in its
18 corporate capacity;
- 19 (11) Lands that are set aside by the governor to the
20 agribusiness development corporation, lands leased to



1 the agribusiness development corporation by any
2 department or agency of the State, or lands to which
3 the agribusiness development corporation in its
4 corporate capacity holds title;

5 (12) Lands to which the Hawaii technology development
6 corporation in its corporate capacity holds title;

7 (13) Lands to which the department of education holds
8 title; and

9 (14) Lands to which the stadium authority holds title; [and

10 ~~(15) Lands to which the school facilities authority holds~~
11 ~~title,]~~

12 provided that, except as otherwise limited under federal law and
13 except for state land used as an airport as defined in section
14 262-1, public lands shall include the air rights over any
15 portion of state land upon which a county mass transit project
16 is developed after July 11, 2005; provided further that if the
17 lands pursuant to paragraph (6) are no longer needed for housing
18 finance and development purposes, the lands shall be returned to
19 the agency from which they were obtained; provided further that
20 if the lands pursuant to paragraph (14) are no longer needed for



1 the stadium development district or related purposes, the lands
2 shall be returned to the public land trust administered by the
3 department."

4 SECTION 13. Section 171-64.7, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) This section applies to all lands or interest therein
7 owned or under the control of state departments and agencies
8 classed as government or crown lands previous to August 15,
9 1895, or acquired or reserved by the government upon or
10 subsequent to that date by purchase, exchange, escheat, or the
11 exercise of the right of eminent domain, or any other manner,
12 including accreted lands not otherwise awarded, submerged lands,
13 and lands beneath tidal waters that are suitable for
14 reclamation, together with reclaimed lands that have been given
15 the status of public lands under this chapter, including:

- 16 (1) Land set aside pursuant to law for the use of the
17 United States;
- 18 (2) Land to which the United States relinquished the
19 absolute fee and ownership under section 91 of the



- 1 Organic Act before the admission of Hawaii as a state
2 of the United States;
- 3 (3) Land to which the University of Hawaii holds title;
- 4 (4) Non-ceded land set aside by the governor to the Hawaii
5 housing finance and development corporation or land to
6 which the Hawaii housing finance and development
7 corporation in its corporate capacity holds title;
- 8 (5) Land to which the department of agriculture holds
9 title by way of foreclosure, voluntary surrender, or
10 otherwise, to recover moneys loaned or to recover
11 debts otherwise owed the department under chapter 167;
- 12 (6) Land that is set aside by the governor to the Aloha
13 Tower development corporation or land to which the
14 Aloha Tower development corporation holds title in its
15 corporate capacity;
- 16 (7) Land that is set aside by the governor to the
17 agribusiness development corporation or land to which
18 the agribusiness development corporation in its
19 corporate capacity holds title;



- 1 (8) Land to which the Hawaii technology development
- 2 corporation in its corporate capacity holds title;
- 3 (9) Land to which the department of education holds title;
- 4 (10) Land to which the Hawaii public housing authority in
- 5 its corporate capacity holds title; and
- 6 (11) Land to which the stadium authority holds title[~~and~~
- 7 ~~(12) Land to which the school facilities authority holds~~
- 8 ~~title]."~~

9 SECTION 14. Section 302A-1151.1, Hawaii Revised Statutes,
10 is amended to read as follows:

11 "**§302A-1151.1 Pilot program for lease of public school**

12 **land.** (a) There shall be established within the [~~school~~
13 ~~facilities authority]~~ department a pilot program for the lease
14 of public school land, including facilities. The [~~school~~
15 ~~facilities authority,~~] department, in consultation with any
16 other appropriate agency, shall serve as the facilitator of the
17 pilot program.

18 (b) Notwithstanding sections 171-13 and 302A-1151, or any
19 other law to the contrary, the [~~school facilities authority]~~
20 board may lease public school land on terms it deems



1 appropriate, including a leaseback of all or a portion of the
2 improvements constructed; provided that:

3 (1) The [~~school facilities authority~~] department may
4 identify and select up to five public school land
5 sites as candidates for participation in the pilot
6 program; provided that:

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

13 (B) If the site is on land owned by the county, the
14 [~~school facilities authority~~] department shall
15 consult with the county;

16 (2) The [~~school facilities authority~~] department may lease
17 public school land for no more than three public
18 school land sites identified and selected by the
19 [~~school facilities authority~~] board pursuant to
20 paragraph (1) under leases for a term of not more than



1 ninety-nine years per lease, to lessees who shall be
2 required to modify, construct, or utilize facilities
3 to benefit public educational purposes, in accordance
4 with specific request for proposal or request for
5 information guidelines;

6 (3) Each lease shall stipulate that the lessee may retain
7 any revenue generated from the facilities; provided
8 that:

9 (A) The lessee shall be obligated to maintain and
10 operate the facilities to benefit public
11 educational purposes for the length of the lease;

12 (B) The lessee shall be obligated to pay to the
13 county all applicable property tax on the value
14 of any improvements;

15 (C) A leasehold premium may be charged to the lessee
16 for the right to use the public school land based
17 on a competitive process that complies with
18 applicable sections of chapter 103D;



1 (D) Upon the expiration of the lease, the facilities
2 shall revert to the [~~school facilities~~
3 ~~authority,~~] department; and

4 (E) All revenues and proceeds derived by the State
5 under this section shall be deposited in the
6 school facilities subaccount pursuant to section
7 302A-1151.2; and

8 (4) Notwithstanding any law to the contrary, the [~~school~~
9 ~~facilities authority~~] department may enter into
10 leaseback agreements that allow the [~~school facilities~~
11 ~~authority~~] department to lease or sublease the
12 property to a third party. The [~~school facilities~~
13 ~~authority~~] department may lease back the property from
14 the third-party lessee or sublessee for a contractual
15 period of time, after which the [~~school facilities~~
16 ~~authority~~] department shall own any improvements.

17 (c) Any redevelopment involving nonschool purposes shall:

18 (1) Comply with county plans, ordinances, and zoning and
19 development codes; and

20 (2) Acquire all required government approvals and permits.



1 (d) Nothing in this section shall preclude the [~~school~~
2 ~~facilities authority~~] department from working with and receiving
3 assistance from any other department or agency in carrying out
4 the purposes of this section.

5 [~~(e) Any lease entered into by the school facilities~~
6 ~~authority pursuant to subsection (b) shall be fully executed no~~
7 ~~later than ten years from July 1, 2013.~~

8 ~~(f)]~~ (e) For purposes of this section, public educational
9 purposes shall include but are not limited to:

10 (1) A new revenue source from the redevelopment of one or
11 more underutilized [~~school facilities authority~~]
12 department facilities;

13 (2) New construction of [~~school facilities authority~~]
14 department facilities or renovation of existing,
15 underutilized [~~school facilities authority~~] department
16 facilities into a twenty-first century school; or

17 (3) A combination of paragraphs (1) and (2)."

18 SECTION 15. Section 302A-1602, Hawaii Revised Statutes, is
19 amended as follows:



1 1. By amending the definition of "school facilities" to
2 read:

3 "~~School facilities~~" means the facilities owned or operated
4 by [~~the authority or~~] the department, or the facilities included
5 in [~~the authority or~~] the department's capital budget or capital
6 facilities plan."

7 2. By repealing the definition of "authority":

8 [~~"Authority" means the school facilities authority~~
9 ~~established by section 302A-1702."~~]

10 SECTION 16. Section 302A-1603, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§302A-1603 Applicability and exemptions.** (a) Except as
13 provided in subsection (b), any person who seeks to develop a
14 new residential development within a designated school impact
15 district requiring:

- 16 (1) A county subdivision approval;
- 17 (2) A county building permit; or
- 18 (3) A condominium property regime approval for the
19 project,



1 shall be required to fulfill the land component impact fee or
2 fee in lieu requirement and construction cost component impact
3 fee requirement of the [~~authority,~~] department, including all
4 government housing projects and projects processed pursuant to
5 sections 46-15.1 and 201H-38.

6 (b) The following shall be exempt from this section:

7 (1) Any form of housing permanently excluding school-aged
8 children, with the necessary covenants or declarations
9 of restrictions recorded on the property;

10 (2) Any form of housing that is or will be paying the
11 transient accommodations tax under chapter 237D;

12 (3) All nonresidential development;

13 (4) Any development with an executed education
14 contribution agreement or other like document with
15 [~~the authority or~~] the department for the contribution
16 of school sites or payment of fees for school land or
17 school construction;

18 (5) Any form of housing developed by the department of
19 Hawaiian home lands for use by beneficiaries of the
20 Hawaiian Homes Commission Act, 1920, as amended; and



1 appropriations contained in Act 164, Regular Session of 2023,
2 and this Act will cause the state general fund expenditure
3 ceiling for fiscal year 2024-2025 to be exceeded by
4 \$ or per cent. This current declaration takes
5 into account general fund appropriations authorized for fiscal
6 year 2024-2025 in Act 164, Regular Session of 2023, and this Act
7 only. The reasons for exceeding the general fund expenditure
8 ceiling are that:

- 9 (1) The appropriation made in this Act is necessary to
10 serve the public interest; and
- 11 (2) The appropriation made in this Act meets the needs
12 addressed by this Act.

13 SECTION 21. There is appropriated out of the general
14 revenues of the State of Hawaii the sum of \$ or so
15 much thereof as may be necessary for fiscal year 2024-2025 to
16 establish the following positions:

- 17 (1) The assistant superintendent of facilities and real
18 estate development; and



1 (2) One full-time equivalent (1.0 FTE) secretary position,
2 who shall be exempt from chapter 76, Hawaii Revised
3 Statutes.

4 The sum appropriated shall be expended by the department of
5 education for the purposes of this Act.

6 SECTION 22. In codifying the new sections added by section
7 2 of this Act, the revisor of statutes shall substitute
8 appropriate section numbers for the letters used in designating
9 the new sections in this Act.

10 SECTION 23. If any provision of this Act, or the
11 application thereof to any person or circumstance, is held
12 invalid, the invalidity does not affect other provisions or
13 applications of the Act that can be given effect without the
14 invalid provision or application, and to this end the provisions
15 of this Act are severable.

16 SECTION 24. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 25. This Act shall take effect upon its approval;
19 provided that sections 10 through 19 and section 21 shall take



S.B. NO. 3328

1 effect on July 1, 2024; provided further that sections 3 and 4
2 shall be repealed on July 1, 2031.

3

INTRODUCED BY: Michelle N. Sedani



S.B. NO. 3328

Report Title:

DOE; SFA; Operations; Expenditure Ceiling; Appropriation

Description:

Clarifies the Department of Education's authority to oversee public education facilities and real estate development. Establishes the Office of Facilities and Real Estate Development and the Office of School Operations and Services. Repeals the School Facilities Authority. Reorganizes the Department of Education's organizational structure for facilities and real estate development. Establishes positions. Makes conforming amendments. Declares that the general fund expenditure ceiling is exceeded. Makes an appropriation. Repeals the Office of Facilities and Real Estate Development and Office of School Operations and Services 7/1/2031.

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

