



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

H.B. NO. 329, RELATING TO THE SCHOOL FACILITIES AUTHORITY.

BEFORE THE:

HOUSE COMMITTEE ON EDUCATION

DATE: Tuesday, January 28, 2025 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 309 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Anne T. Horiuchi or Randall M. Wat, Deputy Attorneys General

Chair Woodson and Members of the Committee:

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

This bill seeks to: (1) clarify that the School Facilities Authority (SFA) is responsible for certain development, planning, and construction projects for prekindergarten, preschool, and child care facilities, as well as workforce housing; (2) allow the SFA to use the Department of Education (DOE) for certain recruitment and hiring responsibilities; (3) allow the SFA to partner with public and private development agencies to develop prekindergarten facilities; and (4) exempt SFA Board workgroups and subcommittees from the Sunshine Law, except as it relates to permitted interactions.

There are key distinctions between the oversight of public prekindergarten and public preschool programs that would affect SFA's new responsibilities under this bill. Pursuant to chapter 302L, Hawaii Revised Statutes (HRS), the Executive Office on Early Learning (EOEL), which operates independently from the DOE and the SFA, is responsible for administering the State's early learning system (sections 302L-1.5(a) and 302L-2, HRS). This system includes all early learning programs and services, whether publicly or privately operated (section 302L-2, HRS). The DOE is only responsible for administering special education and Title I-funded programs at the

prekindergarten level and may establish Title I-funded prekindergarten classrooms (section 26-12(b), HRS).

This bill would make SFA responsible for "all **public school** development, planning, and construction related to . . . [n]ew or renovated prekindergarten, preschool, and child care facilities." (page 2, lines 8-13 (emphasis added)). However, under chapter 302A, "public schools" are defined as "all academic and noncollege type schools established and maintained by [DOE] and charter schools governed by chapter 302D." Because preschool facilities may not fall under this definition, their inclusion in the bill could cause confusion.

To clarify the SFA's role, we recommend removing references to "preschool" in the amendments to section 302A-1703(a) and amending chapter 302L, HRS, to explicitly allow the SFA to partner with the EOEL for the projects under EOEL's jurisdiction, including the establishment of general education prekindergarten schools and preschools.

Additionally, this bill makes SFA responsible for "all **public school** development, planning, and construction related to . . . [w]orkforce housing for educators and other education workers[.]" (Page 2, lines 8-15 (emphasis added).) It is unclear whether or not such housing must be on school property to qualify as "public school" development. We recommend clarifying that SFA can build workforce housing outside of school grounds, if that is the Legislature's intent.

Thank you for the opportunity to provide comments on this bill.

JOSH GREEN, M.D.
GOVERNOR



RIKI FUJITANI
EXECUTIVE DIRECTOR

STATE OF HAWAII
SCHOOL FACILITIES AUTHORITY
2759 S. KING STREET, ROOM H201
HONOLULU, HAWAII 96826

House Committee on Education

Tuesday, January 28, 2025
2:00 p.m.
Hawai'i State Capitol, Room 309

House Bill 329, Relating to the School Facilities Authority

Dear Chair Woodson, Vice Chair La Chica, and Members of the Committee:

The School Facilities Authority (SFA) **supports the intent** of House Bill 329, which would clarify that the SFA is responsible for certain development, planning, and construction projects for prekindergarten, preschool, and child care facilities and workforce housing; allow the SFA to use the Department of Education (DOE) for certain recruitment and hiring responsibilities; allow the SFA to partner with public and private development agencies to develop prekindergarten facilities; and clarify that SFA Board workgroups and subcommittees are permitted interactions under the Sunshine Law.

Clarifying SFA's roles and responsibilities in statute would benefit policymakers, DOE, SFA, and the public and would be useful in shaping SFA's strategic vision. We recognize that the role of the SFA has the potential to be a multi-year policy debate. HB 329 includes just the projects that several legislative acts have already assigned to the SFA, which serves as a good starting point for this discussion.

We support the option to use the DOE for recruitment and hiring. We think the intent of the enabling legislation was to allow the SFA to use either DOE or the Department of Human Resources Development for this purpose, but a lack of clarity has been a limiting factor for the SFA.

We also support clarifying that the SFA is allowed to partner with public and private development agencies to develop prekindergarten facilities. The SFA has been exploring various prekindergarten expansion models, and adding this language to statute could strengthen the options we have been considering.

When considering the proposed amendments in Section 3 of the bill, we believe the fourth purpose of this bill is misstated. Under Section 302A-1704, Hawai'i Revised Statutes (HRS), SFA Board workgroups and subcommittees are permitted interactions under Sunshine Law.

Section 3 of HB 329 appears to attempt to clarify this by removing “provided that all other provisions of chapter 92 apply.” This is a redundant statutory provision as nothing in SFA’s statute exempts it from the provisions of HRS Chapter 92. It is not clear why this provision is in Section 302A-1704, HRS, in the first place, especially considering only Part I of HRS Chapter 92 is the Sunshine Law, not all of HRS Chapter 92 to which the provision references.

Therefore, we recommend the committee change Page 2, Lines 1-4, to state, “Clarifies school facilities authority board workgroups and subcommittees are permitted interactions under section 92-2.5, Hawaii Revised Statutes.” We also recommend that the committee request, perhaps through its committee report, a change to the bill’s description to match the change in the bill.

Thank you for this opportunity to testify.

Sincerely,

Riki Fujitani
Executive Director



STATE OF HAWAII
DEPARTMENT OF EDUCATION
KA 'OIHANA HO'ONA'AUAO
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 01/28/2025

Time: 02:00 PM

Location: 309 VIA VIDEOCONFERENCE

Committee: House Education

Department: Education

Person Testifying: Keith T. Hayashi, Superintendent of Education

Bill Title: HB 0329 RELATING TO THE SCHOOL FACILITIES AUTHORITY.

Purpose of Bill: Clarifies that the School Facilities Authority is responsible for certain development, planning, and construction projects for prekindergarten, preschool, and child care facilities, as well as workforce housing. Allows the School Facilities Authority to use the Department of Education for certain recruitment and hiring responsibilities. Allows the School Facilities Authority to partner with public and private development agencies to develop prekindergarten facilities. Exclude School Facilities Authority Board workgroups and subcommittees from the Sunshine Law, except as it relates to permitted interactions.

Department's Position:

The Hawaii State Department of Education (Department) appreciates the opportunity to offer comments on HB 0329.

The Department has concerns about allowing the School Facilities Authority (SFA) to use the Department for certain recruitment and hiring responsibilities. The Department is currently facing tremendous challenges in recruiting and retaining staff for its Office of Facilities and Operations and cannot assume additional responsibilities for the SFA. Adding more competition for an already limited pool of candidates will result in serious consequences for the Department.

Regarding the proposal to exclude the SFA Board workgroups and subcommittees from the Sunshine Law, except as it relates to permitted interactions, the Office of Information Practices (OIP) took a position on this issue when the SFA was first created in 2020. In its February 19, 2020 written testimony on SB 3103 (Act 72 - Session Laws of Hawaii 2020), the OIP opined that under Chapter 92, Hawaii Revised Statutes, "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.”

The Department is concerned about the SFA Board workgroups and subcommittees having any exemption from the requirements of the Sunshine Law. As a public agency providing a service to the Department, all discussions and decision-making should be noticed appropriately and open to the public for comments and input.

Thank you for this opportunity to offer comments on HB 0329.

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
EMAIL: oip@hawaii.gov

To: House Committee on Education

From: Carlotta Amerino, Director

Date: January 28, 2025, 2:00 p.m.
State Capitol, Conference Room 309

Re: Testimony on H.B. No. 329
Relating to the School Facilities Authority

Thank you for the opportunity to submit testimony on this bill, which would clarify the School Facilities Authority's responsibilities and authority. The Office of Information Practices (OIP) takes **no position on the substance of this bill, but has concerns regarding what appears to be the bill's intent to exempt the Authority from the Sunshine Law**, part I of chapter 92, and technical comments regarding the actual effect of the proposed amendment.

Bill section 3, on pages 7-8, would amend section 302A-1704, HRS. That section allows less than a quorum of Authority members to participate together in a workgroup or subcommittee as a permitted interaction under the Sunshine Law, i.e. a situation in which board members are specifically allowed to talk about board business outside a meeting. The effect of deleting the language "provided that all other provisions of chapter 92 shall apply" would not be to exempt the Authority from the Sunshine Law, as the bill description appears to assume.

Section 92-2, HRS, defines a Sunshine Law "board" as one created by "constitution, statute, rule, or executive order." Since the Authority clearly meets the definition of a "board" under the Sunshine Law, it is not necessary to have

specific language saying it is subject to the Sunshine Law – it is automatically subject to the Sunshine Law because it is a “board” as defined in the Sunshine Law. So the deletion would do nothing to change the Authority’s status as a Sunshine Law board. Further, if the Authority were exempted from the Sunshine Law but the language was left in place stating that its workgroups are permitted interactions under the Sunshine Law that would be both pointless and confusing, since the permitted interaction language would effectively be providing a partial exception to a law that didn’t apply to the Authority in the first place.

It is not clear whether bill section 3 was actually intended to exempt the board from the Sunshine Law as the bill description suggests, but if it was, OIP has strong concerns about exempting the Authority from the Sunshine Law. The Authority has broad power to direct the expenditure of public money on school construction and other education-related projects, and there is a strong public interest in opening its discussions and decisions up to public scrutiny and participation as the Sunshine Law is intended to do. If it were exempted from the Sunshine Law, the public would have no input or access to the process by which money was directed and decisions on school development and construction were made. Thus, OIP recommends that this Committee delete bill section 3.

Thank you for considering OIP’s testimony.

DEPARTMENT OF COMMUNITY SERVICES
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CITY AND COUNTY OF HONOLULU

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ANTON C. KRUCKY
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PO'O

AEDWARD LOS BANOS
DEPUTY DIRECTOR
HOPE PO'O

January 27, 2025

The Honorable Justin Woodson, Chair
The Honorable Trish La Chica, Vice Chair
And Members of the Education Committee for H.B. No. 329
State Capitol
415 South Beretania Street
Honolulu, Hawai'i 96813

Dear Chair Woodson and Vice Chair La Chica
And Members of the Education Committee:

SUBJECT: Testimony – Measure H.B. No. 329; Relating to the School
Facilities Authority

Mahalo for the opportunity to testify in support of the intention behind H.B. No. 329.

We appreciate the Legislature's commitment to expanding access to early learning facilities and empowering the School Facilities Authority (SFA) with the responsibility for certain development, planning, and construction projects for prekindergarten and child care facilities.

The City's Department of Community Services (DCS) has been collaborating with the SFA to identify key sites on O'ahu that may benefit from expanded child care access. As such, we support the intention of the bill related to sections 1 and 2 of the bill and reserve comments on section 3 of the bill.

We look forward to our continued partnership with the State in increasing early learning opportunities for families and appreciate your consideration in passing this measure.

Sincerely,

Anton C. Krucky
Director Designate

To: Representative Justin Woodson, Chair
Representative Trish La Chica, Vice Chair
House Committee on Education

From: Chevelle Davis, Director of Early Childhood & Health Policy
Hawai'i Children's Action Network Speaks!

Subject: Measure H.B. No. 329 – Relating to the School Facilities Authority

Hearing: Tuesday, January 28, 2025, at 2:00 PM, Conference Room 309

POSITION: Support

Aloha e Chair Woodson, Vice Chair La Chica, and Members of the Committee,

Mahalo for the opportunity to provide testimony **supporting H.B. No. 329** clarifying the authority of the School Facilities Authority (SFA).

Expanding access to early learning opportunities across the continuum is vital to achieving the Legislature's goal of providing universal access to quality education for all 3- and 4-year-olds in Hawai'i. Clearly defining the SFA's role eliminates ambiguities and enhances the SFA's ability to fulfill its statutory obligations effectively.

Furthermore, authorizing the SFA to engage in public-private partnerships for prekindergarten facilities presents an efficient and strategic method of utilizing state assets to increase prekindergarten capacity, ultimately supporting families, reducing educational barriers, and addressing workforce demands.

This measure represents a thoughtful and necessary step toward streamlining school development while addressing the critical needs of our keiki, families, and education workforce.

Mahalo for the opportunity to submit testimony in **support of H.B. No. 329**.

Me ka ha'aha'a,
Chevelle Davis, MPH
Director of Early Childhood & Health Policy

Date: January 28, 2025

To: Representative Justin Woodson, Chair
Representative Trish La Chica, Vice Chair
Members of the House Committee on Education

From: Early Childhood Action Strategy

Re: **Support for House Bill 329**

Early Childhood Action Strategy (ECAS) is a statewide cross-sector collaborative designed to improve the system of care for Hawai'i's youngest children and their families. ECAS partners work to align priorities for children prenatal to age eight, streamline services, maximize resources, and improve programs to support our youngest keiki.

ECAS supports House Bill 329 which relates to the School Facilities Authority (SFA).

As currently written, HB329 would clarify the SFA's responsibilities to include development, planning, and construction of pre-k, preschool, and child care facilities. This clarification of the agency's statutory obligations would empower the agency to focus on this key area of early childhood development and move us closer to achieving the Legislature's goal of expanding pre-kindergarten access to all three- and four-year-olds across the state.

The measure would also clarify the SFA's capacity to engage in public-private partnerships with developers and agencies to develop pre-k facilities—a resourceful and efficient approach to expanding opportunities and access for children throughout the state.

For these reasons, ECAS supports HB329.

Mahalo for the opportunity to provide this testimony.



House Committee on Education
Honorable Justin Woodson, Chair
Honorable Trish La Chica, Vice Chair

RE: Testimony in Opposition to H.B. 329, Relating to the School Facilities Authority

Hearing: January 28, 2025 at 2:00 p.m.

Dear Chair and Members of the Committee:

My name is Ben Creps. I am a staff attorney at the Public First Law Center, a nonprofit organization that promotes government transparency.

Thank you for the opportunity to submit testimony **in opposition to H.B. 329**. We specifically oppose the secrecy provision of this bill, which is unexplained and contrary to the spirit of the Sunshine Law.

As written, the bill would allow as a practical matter *all* substantive policy work of the School Facilities Authority Board (Board) to occur in secret, without any guardrails for public accountability. Such a sweeping exemption is antithetical to the principles of transparency that Hawai'i has embraced for decades.

When the Legislature originally enacted the language that would become 302A-1704(e), the Office of Information Practices recommended deletion of the language exempting the Board's subgroups from the Sunshine Law. [2/27/2020 Testimony](#) at 12. Other members of the community, including our organization, echoed that recommendation. *E.g., id.* at 31, 32. It was unclear then, and remains unclear, why the Board's subgroups need to operate in complete secrecy and cannot comply with existing law. *E.g.,* [6/29/2020 Testimony](#) at 35-36.

Existing law already provides flexibility to consult with experts and make recommendations without the full limitations of the Sunshine Law through permitted interaction groups – commonly known as “PIGs” – under HRS § 92-2.5(b)(1). To protect the public interest, however, a PIG must publicly report its findings and recommendations and all board deliberation and decision-making must occur at a properly noticed meeting that is subject to the full Sunshine Law requirements.

H.B. 329, by contrast, does not impose any requirements on the Board's work groups and subcommittees. These subgroups would be permitted to deliberate toward decision and make voting commitments – on matters clearly involving the public fisc –



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outside the public eye without notice and without receiving any community testimony. Nothing about these meetings would be publicly reported.

Because this bill proposes to expand the scope and purpose of the Board, it is all the more important that the Sunshine Law apply to provide public accountability. If HRS § 302A-1704 requires amendment at all, subsection (e) should be removed in its entirety. No exception from the Sunshine Law is necessary for this Board to consult with experts, and it certainly should not have an open-ended exception for all policy work as proposed in H.B. 329.

Thank you again for the opportunity to testify in opposition to H.B. 329.

LATE

HB-329

Submitted on: 1/27/2025 4:07:28 PM

Testimony for EDN on 1/28/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Daniel C. Smith	Individual	Support	Written Testimony Only

Comments:

I support HB329.

In particular, workforce housing on and around school campuses makes good sense.

The administrative and fiscal parts of the bill will make the school facilities authority more effective and efficient.

Daniel C. Smith

Pearl City

LATE

HB-329

Submitted on: 1/28/2025 12:11:28 AM

Testimony for EDN on 1/28/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jeremy Garrett	Individual	Support	Written Testimony Only

Comments:

According to the Centers for Disease Control, there are many benefits associated with early childhood education, including increased Kindergarten readiness, higher educational attainment, and lower rates of depressive indicators, juvenile arrests, and incarceration. I strongly support this measure to expand access to high-quality early childhood education, especially for low-income families.