

ACT 175

H.B. NO. 960

A Bill for an Act Relating to the School Facilities Authority.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. In accordance with section 9 of article VII of the Hawaii State Constitution and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the appropriations contained in H.B. No. 300, H.D. 1, S.D. 1, C.D. 1,¹ will cause the state general fund expenditure ceiling for fiscal year 2023-2024 to be exceeded by \$1,063,767,367 or 10 per cent. In addition, the appropriations contained in this Act will cause the general fund expenditure ceiling for fiscal year 2023-2024 to be further exceeded by \$200,000,000 or 2 per cent. The combined total amount of general fund appropriations contained in only these two Acts will cause the state general fund expenditure ceiling for fiscal year 2023-2024 to be exceeded by \$1,263,767,367

or 12 per cent. The reasons for exceeding the general fund expenditure ceiling are that:

- (1) The appropriations made in this Act are necessary to serve the public interest; and
- (2) The appropriations made in this Act meet the needs addressed by this Act.

SECTION 2. Section 302A-1701, Hawaii Revised Statutes, is amended by amending the definition of “project” to read as follows:

““Project” means the development and construction of new school facilities, including infrastructure; access and other support for new school facilities; prekindergarten facilities; major renovation of school facilities; public-private partnership projects; new capital improvement projects funded by the legislature for completion by the authority; acquisition of real property, personal property, or mixed property for new school facilities; and planning, development, and leasing of public school land or facilities to private partners pursuant to section 302A-1151.1.”

SECTION 3. Section 302A-1703, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) Except as otherwise limited by this chapter, the authority may also:

- (1) Have a seal and alter the same at its pleasure;
- (2) Subject to subsection (b), make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this subpart;
- (3) Make and alter bylaws for its organization and internal management;
- (4) Adopt rules pursuant to chapter 91 with respect to its projects, operations, properties, and facilities, including qualifications for persons and entities wishing to enter into a public-private partnership with the authority, as permitted in paragraph (7);
- (5) Acquire or contract to acquire by grant or purchase real, personal, or mixed property or any interest therein; to clear, improve, and rehabilitate and to sell, assign, exchange, transfer, convey, lease, or otherwise dispose of or encumber the same;
- (6) Acquire property by condemnation pursuant to chapter 101;
- (7) Enter into partnerships with qualified persons, including public-private partnerships, as defined in the authority’s rules, to acquire, construct, reconstruct, rehabilitate, improve, alter, or provide for the construction, reconstruction, improvement, or alteration of any project[;], including prekindergarten facilities; and sell, assign, transfer, convey, exchange, lease, or otherwise dispose of or encumber any project; and in the case of the sale of any project, accept a purchase money mortgage in connection therewith;
- (8) Grant options to purchase any project or to renew any lease entered into by it in connection with any of its projects, on terms and conditions as it deems advisable;
- (9) Prepare or cause to be prepared plans, specifications, designs, and estimates of costs for the construction, reconstruction, rehabilitation, improvement, or alteration of any project, and from time to time to modify the plans, specifications, designs, or estimates;
- (10) Procure insurance against any loss in connection with its property and other assets and operations in amounts and from insurers as it deems desirable;

- (11) Apply for and accept gifts or grants in any form from any public agency or from any other source, including gifts or grants from private individuals and private entities;
- (12) Borrow money or procure loan guarantees from the federal government for or in aid of any project the authority is authorized to undertake pursuant to this chapter. Additionally, in connection with borrowing or procurement of loan guarantees, the authority:
 - (A) Shall comply with conditions required by the federal government pursuant to applicable regulation or required in any contract for federal assistance;
 - (B) Shall repay indebtedness incurred pursuant to this section, including any interest thereon;
 - (C) May execute loan and security agreements and related contracts with the federal government;
 - (D) May issue bonds pledging revenues, assessments, or other taxes as security for indebtedness incurred pursuant to this section; and
 - (E) May enter into financing agreements as that term is defined in section 37D-1;
- (13) Appoint or retain by contract one or more attorneys who are independent of the attorney general to provide legal services solely in cases of negotiations in which the attorney general lacks the sufficient expertise; provided that the independent attorney shall consult and work in conjunction with the designated deputy attorney general;
- (14) Use the department of human resources development to recruit, hire, and retain exempt employees, architects, engineers, existing civil service positions, and other technical positions for the development, planning, and construction related to capital improvement projects; and
- (15) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this subpart.”

SECTION 4. Section 302A-1706, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) The school facilities special fund shall be administered by the authority and used to fund any school development, planning, or construction project, including prekindergarten facilities, within the jurisdiction of the authority.”

SECTION 5. Act 257, Session Laws of Hawaii 2022, is amended to read as follows:

“SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$200,000,000 or so much thereof as may be necessary for fiscal year [2022-2023] 2023-2024 to be deposited into the school facilities special fund.

SECTION 2. There is appropriated out of the school facilities special fund the sum of \$200,000,000 or so much thereof as may be necessary for fiscal year 2023-2024 for the school facilities authority to expand access to pre-kindergarten to eligible children of the State. The school facilities authority may expend the moneys appropriated in this section on:

- (1) The construction of new school facilities;

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- (2) The renovation, improvement, and expansion of existing school facilities to increase pre-kindergarten student capacity; and
- (3) Any other costs the school facilities authority deems appropriate to increase pre-kindergarten student capacity within the State.

The sum appropriated shall be expended by the school facilities authority for the purposes of this Act; provided that the appropriation authorized by this Act shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided further that ~~[all moneys from the appropriation unencumbered as of]~~ the appropriation authorized by this Act shall lapse on June 30, 2024~~[shall lapse as of that date]~~.

SECTION ~~[2.]~~ 3. This Act shall take effect on July 1, 2022.”

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2023.

(Approved July 3, 2023.)

Note

- 1. Act 164.