

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
WAYS AND MEANS**

**Wednesday, March 29, 2017
1:40 PM
State Capitol, Conference Room 211**

**In consideration of
HOUSE BILL 116, HOUSE DRAFT 1, SENATE DRAFT 1
RELATING TO PUBLIC SCHOOLS**

House Bill 116, House Draft 1, Senate Draft 1, proposes to require the City and County of Honolulu (City) to transfer to the Department of Land and Natural Resources (Department) all property upon which a public school is situated. Senate Draft 1 deletes the part of the bill requiring the Department to conduct all land and building due diligence requirements, for which the Department is thankful, and instead requires the Department to take the properties via Quitclaim Deed and in an "as is, where is" condition. Senate Draft 1 unfortunately requires the Department to be responsible for, and incur the costs of, subdividing certain City-owned parcels. **Respectfully, the Department must oppose this measure in its current form, and offers the following comments and suggested amendments.**

This measure identifies 36 parcels that require subdivision prior to conveyance from the City. If the Department is required to go through the City's subdivision processes for each parcel, such a requirement would impose a debilitating mandate on the Department. The Department does not have the funds or spending authority to absorb the cost of processing 36 subdivision approvals. In order to fulfill the mandates of this legislation, the Department would need to contract with a surveyor to prepare the legal metes and bounds description and map, and hire a consultant to process the subdivision through the City council. Depending on the complexity, topography and size of the land to be subdivided, the surveyor's costs could range from \$30,000 to \$50,000 per parcel, and the consultant to process the subdivision through the County could \$50,000 or more, per parcel. Multiplying that amount by the 36 parcels, the Department will need an appropriation of about \$3,600,000. An alternative cost-saving measure could be to exempt the conveyances from the subdivision requirement. However, in order to divide up the 36 parcels between the City and the State, a surveyed legal metes and bounds description and map,

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

approved by the State Surveyor from the Department of Accounting and General Services would be required. At a cost of \$30,000 to \$50,000 per parcel, even a lowball estimate of \$30,000 per parcel would require an appropriation of about \$1,100,000 to the Department.

If the Legislature intends to move this measure forward, then the measure should be amended to eliminate the subdivision requirement. The measure should direct the City to quitclaim to the State the entire school site and City facility site, and subsequently require that the Department request the Governor to execute an Executive Order to the City for the park and/or facility site. The elimination of the subdivision requirement would result in costs being limited to the surveyed map and legal descriptions. Actual costs, however, will be dependent on the complexity, topography, and size of the land but a rough estimate would be between \$15,000 to \$30,000 for each parcel. In order to implement this measure, the Department would require an appropriation between \$600,000 to \$1,100,000 for the surveyed legal metes and bounds and maps. If the Department is required to comply with the City's subdivision ordinance, then the required appropriation would be much larger.¹ The Department has prepared a proposed Senate Draft 2 of this bill (Proposed changes highlighted in yellow) consistent with this testimony for this honorable committee's consideration. The Department has pointed out other problematic areas with this bill but also notes that the decision may be a policy call for the legislature.²

Finally, the Department notes that this measure will not necessarily improve the management or operations of the affected schools. The Department of Education (DOE) has operated the schools located on the properties identified in this measure for the last half century without significant issue. As noted previously in this testimony, regardless of whether the fee interest in the properties is owned by the City or the State, the schools will continue to be operated by DOE. This measure would provide the State a significant benefit only if the intent is to redevelop the properties for uses *other than that of a school*. If that is the intent of the measure, then the Board of Education should hold public hearings in the affected communities prior to any school closures.

Thank you for the opportunity to comment on this measure.

1 Depending on the complexity, size and topography of the land, the addition of the county subdivision process to the required survey could raise costs to about \$100,000 per parcel, which would require an appropriation to the Department of about \$3,600,000.

2 This measure would also prohibit the Department from properly negotiating the acquisitions by requiring the Department to accept the properties on an "as is, where is" basis, as well as releasing, waiving and extinguishing any future claims the Department may have. When negotiating an acquisition, the Department requires the landowner to resolve any title issue or encumbrance that the Department finds objectionable prior to the closing. The Department's standard practice is to require the landowner to convey the property via the State's standard form warranty deed. The provisions of the warranty deed require the landowner to warrant and defend title to the property as well as indemnify against pre-existing environmental hazards after the closing of the transaction.

Additionally, the language of the measure is unclear as to whether the Department has any discretion on whether to accept the conveyance of the properties. Pursuant to Section 171-30, Hawaii Revised Statutes, the Board of Land and Natural Resources (Board) has the exclusive responsibility to acquire real property on behalf of the State for public purposes. If the intent is to force the Department to acquire such lands without discretion, it would run counter to the Board's statutory direction.

A BILL FOR AN ACT

RELATING TO PUBLIC SCHOOLS.

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

1 SECTION 1. The legislature finds that Act 97, Session Laws
2 of Hawaii 1965, transferred the responsibility for functions
3 that were deemed to be of statewide concern from the counties to
4 the State. Among these functions were the planning,
5 construction, improvement, and maintenance of public school
6 facilities and grounds. Since public school facilities and
7 grounds are the responsibility of the State, it is reasonable to
8 continue transferring remaining county lands to the State.

9 The purpose of this Act is to:

- 10 (1) Transfer parcels of property containing schools
11 operated by the department of education that are
12 currently owned by the city and county of Honolulu to
13 the State; and
- 14 (2) Extend the twenty-first century schools pilot program
15 Established by Act 155, Session Laws of Hawaii 2013,

1 for an additional five years.

2 PART II

3 SECTION 2. (a) Notwithstanding any other law to the
4 contrary, the fee simple interest to the following parcels of
5 land with the existing improvements thereon (hereinafter "the
6 properties") (but not including submerged land, accreted land,
7 or any land makai of the shoreline), shall be conveyed by the
8 city and county of Honolulu to the department of land and
9 natural resources as grantee, as is, where is:

- 10 (1) TMK 1-4-4-3-16 (Aikahi Elementary);
- 11 (2) TMK 1-4-5-16-1 (Ben Parker Elementary);
- 12 (3) TMK 1-4-5-34-14 (Castle High);
- 13 (4) TMK 1-4-2-2-37 (portion) (Enchanted Lake Elementary);
- 14 (5) TMK 1-4-6-31-20 (Heeia Elementary);
- 15 (6) TMK 1-4-7-12-24 (portion) (Kahaluu Elementary);
- 16 (7) TMKs 1-5-6-6-9, 1-5-6-6-10, and 1-5-6-6-25 (Kahuku
17 High and Elementary);
- 18 (8) TMK 1-4-3-56-9 (portion) (Kailua Elementary);
- 19 (9) TMK 1-4-3-56-9 (portion) (Kailua Intermediate);
- 20 (10) TMK 1-4-3-76-15 (Kainalu Elementary);
- 21 (11) TMK 1-4-4-34-24 (Kalaheo High);
- 22 (12) TMK 1-4-5-103-11 (Kaneohe Elementary);

- 1 (13) TMK 1-4-5-78-14 (portion) (Kapunahala Elementary);
- 2 (14) TMK 1-4-2-92-1 (portion) (Keolu Elementary);
- 3 (15) TMK 1-4-6-4-2 (King Intermediate);
- 4 (16) TMK 1-5-5-15-23 (Laie Elementary);
- 5 (17) TMK 1-4-2-55-12 (Lanikai Elementary);
- 6 (18) TMK 1-4-2-43-2 (portion) (Maunawili Elementary);
- 7 (19) TMK 1-4-5-30-38 (portion) (Puohala Elementary);
- 8 (20) TMKs 1-4-8-9-9, 1-4-8-9-11 (Waiahole Elementary);
- 9 (21) TMK 1-9-4-59-73 (August Ahrens Elementary);
- 10 (22) TMK 1-9-1-1-2 (portion) (Campbell High);
- 11 (23) TMK 1-9-1-115-13 (Ewa Beach Elementary);
- 12 (24) TMK 1-9-1-17-37 (Ewa Elementary);
- 13 (25) TMK 1-9-7-36-124 (Highlands Intermediate);
- 14 (26) TMK 1-9-1-1-2 (portion) (Ilima Intermediate);
- 15 (27) TMK 1-9-1-1-3 (Iroquois Point Elementary);
- 16 (28) TMK 1-9-7-17-2 (portion) (Lehua Elementary);
- 17 (29) TMK 1-8-7-4-42 (portion) (Maili Elementary);
- 18 (30) TMK 1-8-4-25-10 (Makaha Elementary);
- 19 (31) TMK 1-9-7-93-16 (portion) (Palisades Elementary);
- 20 (32) TMK 1-9-7-24-2 (Pearl City Elementary);
- 21 (33) TMK 1-9-7-36-122 (Pearl City Highlands Elementary);
- 22 (34) TMK 1-9-1-1-2 (portion) (Pohakea Elementary);

- 1 (35) TMK 1-8-5-1-67 (Waianae Elementary);
- 2 (36) TMK 1-8-5-15-1 (Waianae High);
- 3 (37) TMK 1-9-4-10-98, 1-9-4-29-1 (Waipahu Elementary);
- 4 (38) TMK 1-9-4-8-20 (Waipahu High);
- 5 (39) TMK 1-9-4-1-29 (portion) (Waipahu Intermediate);
- 6 (40) TMK 1-9-8-31-17 (Aiea High);
- 7 (41) TMK 1-1-1-10-33 (portion) (Aliamanu Elementary);
- 8 (42) TMK 1-1-1-10-33 (portion) (Aliamanu Intermediate);
- 9 (43) TMKs 1-9-8-29-2, 1-9-8-29-29 (Alvah Scott Elementary);
- 10 (44) TMKs 1-6-6-13-11, 1-6-6-13-13, 1-6-6-14-15 (Haleiwa
11 Elementary);
- 12 (45) TMK 1-7-1-2-17 (Helemano Elementary);
- 13 (46) TMK 1-7-5-27-2 (portion) (Iliahi Elementary);
- 14 (47) TMK 1-7-3-19-13 (Kaala Elementary);
- 15 (48) TMK 1-9-5-21-2 (portion) (Kipapa Elementary);
- 16 (49) TMK 1-7-4-18-1 (Leilehua High);
- 17 (50) TMK 1-1-1-34-42 (Moanalua Elementary);
- 18 (51) TMK 1-1-1-9-5 (portion) (Moanalua Intermediate);
- 19 (52) TMK 1-1-1-2-6 (Nimitz Elementary);
- 20 (53) TMK 1-1-1-10-27 (Pearl Harbor Elementary);
- 21 (54) TMK 1-9-9-2-23 (Radford High);

- 1 (55) TMKs 1-7-1-2-8, 1-7-5-5-7, 1-7-5-5-3 (Wahiawa
2 Elementary);
- 3 (56) TMK 1-6-7-1-10 (Waialua Elementary);
- 4 (57) TMK 1-6-7-2-10 (Waialua High and Intermediate);
- 5 (58) TMK 1-9-8-8-7 (portion) (Waimalu Elementary);
- 6 (59) TMK 1-3-6-11-9 (portion) (Aina Haina Elementary);
- 7 (60) TMKs 3-4-004-006, 3-4-004-007 (Anuenue Elementary);
- 8 (61) TMKs 2-1-005-001 (portion), 2-1-009-002, 2-1-009-003
9 (Central Intermediate);
- 10 (62) TMKs 1-3-024-005, 1-3-024-004 (portion) (Dole
11 Intermediate);
- 12 (63) TMKs 1-6-003-048, 1-6-021-005 (Farrington High);
- 13 (64) TMKs 1-3-001-023, 1-3-001-017 (portion) (Fern
14 Elementary);
- 15 (65) TMK 3-9-038-001 (portion) (Hahaione Elementary);
- 16 (66) TMKs 2-8-029-010, 2-8-029-011 (Hokulani Elementary);
- 17 (67) TMK 2-4-012-002 (Kaahumanu Elementary);
- 18 (68) TMKs 1-3-024-001, 1-3-024-002 (Kaewai Elementary);
- 19 (69) TMK 3-5-011-027 (Kahala Elementary);
- 20 (70) TMK 2-7-024-001 (Kaimuki High);
- 21 (71) TMK 3-2-059-002 (Kaimuki Intermediate);
- 22 (72) TMK 3-9-005-027 (Kaiser High);

- 1 (73) TMKs 1-5-024-040, 1-5-025-002 (portion) (Kalakaua
2 Intermediate);
- 3 (74) TMK 3-5-020-004 (Kalani High);
- 4 (75) TMK 1-4-007-002 (portion) (Kalihi Elementary);
- 5 (76) TMK 1-5-025-002 (portion) (Kalihi-Kai Elementary);
- 6 (77) TMKs 1-3-035-001 (portion), 1-3-036-079 (Kalihi-Uka
7 Elementary);
- 8 (78) TMK 3-9-005-061 (Kamiloiki Elementary);
- 9 (79) TMK 1-6-026-022 (Kapalama Elementary);
- 10 (80) TMK 1-7-023-042 (Kauluwela Elementary);
- 11 (81) TMK 2-2-009-011 (Kawananakoa Intermediate);
- 12 (82) TMK 3-9-022-037 (Koko Head Elementary);
- 13 (83) TMKs 2-7-017-030, 2-7-027-010 (portion) (Kuhio
14 Elementary);
- 15 (84) TMK 3-2-021-035 (Liholiho Elementary);
- 16 (85) TMKs 1-6-008-016, 1-6-008-022, 1-6-008-024, 1-6-008-
17 038, 1-6-008-058 (Likelike Elementary);
- 18 (86) TMK 1-3-039-005 (Linapuni Elementary);
- 19 (87) TMKs 2-3-030-055, 2-3-030-056 (Lunalilo Elementary);
- 20 (88) TMK 2-9-036-003 (portion) (Manoa Elementary);
- 21 (89) TMK 3-7-003-010 (portion) (Niu Valley Intermediate);
- 22 (90) TMK 2-9-023-023 (Noelani Elementary);

1 (91) TMK 2-2-043-011 (Nuuanu Elementary);

2 (92) TMK 3-4-002-001 (Palolo Elementary);

3 (93) TMK 2-2-016-020 (portion) (Pauoa Elementary);

4 (94) TMK 1-2-008-001 (Puuhale Elementary);

5 (95) TMK 3-2-045-003 (Waiialae Elementary);

6 (96) TMK 3-1-025-001 (portion) (Waikiki Elementary);

7 (97) TMK 2-3-026-001 (Washington Intermediate); and

8 (98) TMK 3-5-017-012 (portion) (Wilson Elementary).

9 (b) The city and county of Honolulu shall prepare,
10 execute, and record, in the land court or bureau of conveyances,
11 as appropriate, a quitclaim deed to convey each above-listed
12 parcel with all existing improvements, subject to the property
13 boundaries determined pursuant to subsection (d), to the
14 department of land and natural resources, as grantee. As these
15 are conveyances in which the city and county of Honolulu and the
16 State and its agencies are the only parties, the tax imposed by
17 section 247-1, Hawaii Revised Statutes, shall not apply to
18 them. Effective on the date of transfer pursuant to subsection
19 (e), every reference to the present titleholder or the head of
20 the department or agency in each instrument, if the titleholder
21 is a department or an agency, shall be construed as a reference
22 to the department of land and natural resources.

1 (c) The department of land and natural resources shall
2 accept the properties in their existing condition. All claims
3 and liabilities against the city and county of Honolulu, if any,
4 which the department of land and natural resources has, may have
5 had, or may have in the future, regarding any injury, loss,
6 cost, damage, or liability, including reasonable attorney's
7 fees, concerning the physical, environmental, soil, economic,
8 and legal conditions of the conveyed properties, are released,
9 waived, and extinguished.

10 (d) Because the tax map numbers for parcels (2), (4), (6),
11 (8), (9), (13), (14), (18), (19), (28), (29), (31), (32), (39),
12 (46), (47), (48), (50), (51), (56), (58), (59), (61), (65),
13 (66), (68), (71), (73), (76), (77), (78), (80), (82), (88),
14 (89), and (98) include an abutting city and county of Honolulu
15 public park, the department of land and natural resources and
16 the city and county of Honolulu shall agree on the proposed
17 property boundary separating the school and park portions of the
18 properties. In the event the county and the department of land
19 and natural resources are unable to resolve a boundary dispute,
20 the governor shall make the final decision giving higher
21 priority to the county's preference. The governor's decision
22 shall be final and nonappealable. The department of land and

1 natural resources shall not be required to subdivide [the] any
2 parcel but shall work with the county in procuring the services of
3 a professional surveyor to prepare legal metes and bounds and a
4 map, subject to the review and approval of the State surveyor's
5 office, and to work together towards seeking a governor's
6 executive order to set aside the lands to the county for the park
7 or other county facility. The foregoing parcels shall be surveyed
8 in accordance with the agreed upon property boundaries.

9 (e) Transfer of parcels (3), (7), (9), (11), (15), (22),
10 (25), (26), (36), (38), (39), (40), (42), (49), (51), (54),
11 (57), (61), (62), (63), (70), (71), (72), (73), (74), (81),
12 (89), and (97) shall be effective December 31, 2018. Transfer
13 of all remaining parcels shall be effective December 31, 2019.

14 SECTION 3. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of [\$]\$2,000,000 or so
16 much thereof as may be necessary for fiscal year 2017-2018 and
17 the same sum or so much thereof as may be necessary for fiscal
18 year 2018-2019 to be expended in the following manner:

19 (1) \$900,000 or so much thereof as may be necessary for
20 fiscal years 2017-2018 and 2018-19 as a grant-in-aid
21 to the city and county of Honolulu to prepare,

1 execute, and record the quitclaim deeds required under
2 this Act ~~[-]~~; and

3 (2) \$1,100,000 or so much as may be necessary for fiscal
4 years 2017-2018 and 2018-19 to the department of land
5 and natural resources to procure surveyor services to
6 prepare the legal metes and bounds and map, subject to
7 the approval of the State surveyor's office, and for
8 the set aside of those lands to the county as provided
9 for in this Act.

10 The sums appropriated shall be expended by the city and
11 county of Honolulu and the department of land and natural
12 resources for the purposes of this Act.

13 PART III

14 SECTION 4. Section 302A-1151.1, Hawaii Revised Statutes,
15 is amended by amending subsection (e) to read as follows:

16 "(e) Any lease entered into by the department pursuant to
17 subsection (b) shall be fully executed no later than ~~[five]~~ ten
18 years from July 1, 2013."

19 PART IV

20 SECTION 5. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22 SECTION 6. This Act shall take effect on July 1, 2051.

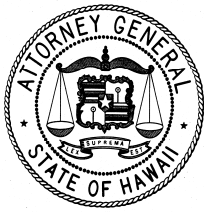
Report Title:

Public Schools; Property; Title; Transfer

Description:

Requires the City and County of Honolulu to transfer to the Department of Land and Natural Resources all property upon which a public school is situated. Extends the twenty-first century schools pilot program by an additional five years. Effective 7/1/2051. (PROPOSED HB116 HD1 SD1 Proposed SD2)

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



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2017**

ON THE FOLLOWING MEASURE:

H.B. NO. 116, H.D. 1, S.D. 1, RELATING TO PUBLIC SCHOOLS.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Wednesday, March 29, 2017 **TIME:** 1:40 p.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**
(For more information, contact David D. Day,
Deputy Attorney General, at 587-2990)

Chair Tokuda and Members of the Committee:

The Department of the Attorney General provides the following comments.

The purpose of this bill is to require to the City and County of Honolulu to convey land upon which 98 public schools sit, with existing improvements, to the Department of Education.

The Department of the Attorney General believes that it lacks sufficient information regarding the 98 properties at issue to perform a full analysis of the legal implications of the bill. For instance, how the City and County of Honolulu came to own each individual parcel or the potential existence of pollutants on site could have broad legal consequences.

Therefore, we respectfully suggest that a concurrent resolution be offered to request that an appropriate agency conduct a study into land owned by the City and County of Honolulu that is currently used for public schools. To the extent the agency would require money to conduct the study, a bill with an appropriation would be required.

We also note that it is currently unclear whether the bill seeks to bypass the review or approval of the quitclaim deeds by the Department of the Attorney General. The bill as written currently provides that the City and County of Honolulu shall prepare,

execute, and record quitclaim deeds without any reference to action to be taken by any state entity, including the Department of the Attorney General, in this process.

According to section 107-10, Hawaii Revised Statutes (HRS), “No real property or any right, title, or interest therein shall be acquired by agreement, purchase, gift, devise, eminent domain, or otherwise, for any purpose, by the State or any department . . . without the prior approval of the attorney general as to form, exceptions, and reservations.” The duties of the Department of the Attorney General include “approv[ing] as to legality and form all documents relating to the acquisition of any land or interest in lands by the State[.]” Section 26-7, HRS.

We also respectfully recommend that the bill be amended to provide that all quitclaim deeds are subject to review and approval by the Department of the Attorney General prior to execution and recordation.

Finally, we note that the bill could be subject to challenge as violative of article VIII, section 5 of the Hawai'i Constitution, which provides: “If any new program or increase in the level of service under an existing program shall be mandated to any of the political subdivisions by the legislature, it shall provide that the State share in the cost.” While the bill proposes to appropriate funds to the City and County of Honolulu to prepare, execute, and record the quitclaim deeds, it does not appropriate any funds in connection with the proposed subdivision of some of the parcels.

Thank you for the opportunity to provide comments.

Written Only

DAVID Y. IGE
GOVERNOR



KATHRYN S. MATAYOSHI
SUPERINTENDENT

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

Date: 03/29/2017

Time: 01:40 PM

Location: 211

Committee: Senate Ways and Means

Department: Education

Person Testifying: Kathryn S. Matayoshi, Superintendent of Education

Title of Bill: HB 0116, HD1, SD1 RELATING TO PUBLIC SCHOOLS.

Purpose of Bill: Requires the City and County of Honolulu to transfer to the Department of Land and Natural Resources all property upon which a public school is situated. Extends the twenty-first century schools pilot program by an additional five years. Effective 7/1/2051. (SD1)

Department's Position:

The Department of Education (DOE) supports the intent of this bill as it extends the Twenty-First Century Pilot Program for an additional five years. The bill mandates the City and County of Honolulu (C&C) transfer almost 100 parcels of land to the State of Hawaii's Department of Land and Natural Resources (DLNR). The fee simple ownership by the State of all school parcels currently owned by the C&C would simplify DOE's maintenance and redevelopment of its school sites. However, there will need to be sufficient funding for both the C&C and DLNR to complete the tasks assigned in this bill.

Act 97, Session Laws of Hawaii (SLH) 1965, transferred executive authority for county school lands to the State. The DOE has managed these lands since the enactment of this law, 52 years ago. The circumstance of having state schools on county land, or situated on both county and state land, creates unnecessary difficulty in the management of school properties. To continue to effectively maintain school facilities and to accommodate future growth, where needed, many of our existing campuses will have to undergo extensive renovation or major rebuilding. It would greatly simplify the process if fee simple interest for county school lands was effectively transferred to the State. The DOE believes this was the original intent of Act 97, SLH 1965.

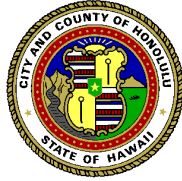
The DOE recognizes the inherent burden that transferring these properties may place on DLNR and asks that this bill include either an equivalent appropriation, or a clear

mechanism for funding, for all costs associated with the legal transfer of these parcels.

Thank you for the opportunity to present DOE testimony on HB 0116.

OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR

ROY K. AMEMIYA, JR.
MANAGING DIRECTOR

GEORGETTE T. DEEMER
DEPUTY MANAGING DIRECTOR

CITY AND COUNTY OF HONOLULU
BEFORE THE COMMITTEE ON WAYS AND MEANS

WEDNESDAY, MARCH 29, 2017, 1:40 PM

TO: THE HONORABLE JILL N. TOKUDA, CHAIR
THE HONORABLE DONOVAN M. DELA CRUZ, VICE CHAIR
AND MEMBERS OF THE COMMITTEE ON WAYS AND MEANS

FROM: ROY K. AMEMIYA, JR., MANAGING DIRECTOR
CITY AND COUNTY OF HONOLULU

SUBJECT: OPPOSITION TO H.B. 116, SD1, RELATING TO PUBLIC SCHOOLS.

The City and County of Honolulu **opposes** H.B. 116, SD1, which requires the City and County of Honolulu (City) to transfer to the Department of Education (DOE) all property upon which a public school is situated. These properties make up a significant portion of the City's assets.

The City would support provisions giving to the State properties upon which public schools are situated that were transferred to the City through an executive order. The City is opposed to giving to the State school properties that were not transferred to the City through an executive order. Further research is necessary to determine which parcels listed in HB116, SD1 were transferred to the City through an executive order.

City and State agencies have been working together effectively to explore the potential for redevelopment of school properties (including many of the properties on City-owned lands) throughout the transit corridor. These school properties in rail transit station areas offer the potential for more vertical school construction, plus development of significant amounts of affordable and workforce housing. Some state agency staff have also suggested maximizing the development capacity of state lands by formalizing the use of nearby City park lands for school recreation purposes.

Rather than just taking ownership of City lands, the City supports working with the State to identify land exchanges and other partnerships that would work in both the City's and the State's favor and simplify ownership. This could include identifying State lands that are used for City purposes such as parks and golf courses, and City lands that are used for State purposes, such as the parcels identified in this measure.

Thank you for your consideration of this testimony in opposition to H.B. 116, SD1 as written.



**Testimony to the Senate Committee on Ways and Means
Wednesday, March 29, 2017 at 1:40 P.M.
Conference Room 211, State Capitol**

RE: HOUSE BILL 116 HD1 SD1 RELATING TO PUBLIC SCHOOLS

Chair Tokuda, Vice Chair Dela Cruz, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports the intent** of HB 116 HD1 SD1, which requires the City and County of Honolulu to transfer to the Department of Land and Natural Resources all property upon which a public school is situated; extends the twenty-first century schools pilot program by an additional five years.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ 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 proposed bill attempts to address a long standing problem regarding the split ownership of lands used for public schools in Hawaii.

The legislature, pursuant to Act 97, Session Laws of Hawaii 1965, transferred the responsibility for functions that were deemed to be of statewide concern from the counties to the State. Among these functions were the planning, construction, improvement, and maintenance of public school facilities and grounds, and the transportation of school children. Prior to the passage of Act 97, the counties issued bonds to plan, construct, improve, and maintain public school facilities and grounds. Since these functions are now wholly the responsibility of the State, it only made sense to begin transferring all remaining county lands and improvements under the department of education to the State.

Act 154, SLH 2003 conveyed fee simple title of all County of Hawaii lands being used by the DOE to the State of Hawaii. The County of Hawaii was the only county to have legislation passed to convey the fee simple interest in its properties to the State.

The State of Hawaii Department of Education has invested significant public funds on maintenance and capital improvement projects for new school facilities. The expenditure of these public funds was done without regard to the underlying fee ownership of the property. This investment in vertical improvements is transferred to the City when a school is closed (i.e. Wailupe Elementary School).



Chamber of Commerce HAWAII

The Voice of Business

Act 155, SLH 2013 provided the Department of Education with the authority to redevelop its assets to create 21st Century Schools. The Act also allowed the DOE to explore different mechanisms to redevelop its assets, including revenue generation in support of investments in 21st Century Schools.

The Department of Education is responsible for approximately 2,120 acres/92,353,688 square feet of land under its school facilities within the City and County of Honolulu. Of this total land area, the City and County of Honolulu owns approximately one-half of the land under the existing school facilities (1,004 acres/43,753,360 square feet).

The split ownership of the underlying fee simple lands under existing schools creates problems for redevelopment especially when private investment is involved.

In order to allow the DOE flexibility to redevelop and/or reposition its assets, especially along the rail transit corridor, the State of Hawaii should consolidate ownership of the lands under existing public schools.

We appreciate the opportunity to provide our input on this important legislation.