

JAN 25 2012

A BILL FOR AN ACT

RELATING TO LIBRARIES.

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

1 SECTION 1. Chapter 312, Hawaii Revised Statutes, sets
2 forth the duties and responsibilities of the state board of
3 education. This Act makes housekeeping changes that will more
4 accurately reflect long-standing board of education and Hawaii
5 state public library system practice. These duties and
6 responsibilities, which were initially assigned to the board of
7 education, have been delegated to the state librarian and the
8 Hawaii state public library system for many decades. This Act
9 also allows the state librarian to appoint the state librarian's
10 private secretary. This secretary position was originally a
11 permanent secretary IV that was reclassified to a private
12 secretary I effective on October 1, 1983 for the state librarian
13 at that time. This position was then abolished on September 1,
14 1995, by the state librarian as part of the budget reductions
15 for the Hawaii state public library system. On September 28,
16 2001, the current state librarian established a temporary exempt
17 position for a private secretary II under Act 130, Session Laws
18 of Hawaii 2000. On September 15, 2011, the private secretary II

S.B. NO. 2773

1 position was finally established as a permanent exempt and
2 excluded position by Act 164, Session Laws of Hawaii 2011. This
3 Act aligns legislation with current practice.

4 SECTION 2. Chapter 312, Hawaii Revised Statutes, is
5 amended by adding a new section to be appropriately designated
6 and to read as follows:

7 "§312- State librarian; appointment; duties. The state
8 librarian shall collect, purchase, receive gifts of, and
9 otherwise acquire all books and other publications proper for
10 libraries, and arrange, classify, and catalog the same; provide
11 for their safekeeping; expend moneys appropriated by the
12 legislature and otherwise acquired for the development, use,
13 support, and maintenance of libraries; provide ways and means
14 for placing libraries within reach of all residents throughout
15 the State and particularly of all public and private school
16 children; provide and maintain branch libraries, offices, or
17 places for the distribution of books and periodicals throughout
18 the State; enter into contracts as may be necessary to carry
19 into effect the general duties herein imposed; appoint such
20 officers and employees as deemed necessary, all of whom shall be
21 under the authority of the governor for purposes of chapters 76,
22 78, 89, and 89C; and adopt rules for the management and use of

1 libraries, and for the control of the property under its
2 management. The state librarian may also appoint, without
3 regard to chapter 76, one secretary for the state librarian.
4 The secretary for the state librarian shall serve at the
5 pleasure of the state librarian."

6 SECTION 3. Section 312-1, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§312-1 Duties of the board of education.** The board of
9 education shall care for, manage, and control all property set
10 apart, donated, loaned to, or in any manner acquired for the use
11 of libraries; receive, care for, expend, and account for any
12 money which may be received for the purpose of erecting
13 buildings for libraries or for any other purposes of the
14 libraries[; ~~collect, purchase, receive gifts of, and otherwise~~
15 ~~acquire all books and other publications proper for libraries,~~
16 ~~and arrange, classify, and catalogue the same; provide for their~~
17 ~~safekeeping; expend moneys appropriated by the legislature and~~
18 ~~otherwise acquired for the development, use, support, and~~
19 ~~maintenance of libraries; provide ways and means for placing~~
20 ~~libraries within reach of all residents throughout the State and~~
21 ~~particularly of all public and private school children; provide~~
22 ~~and maintain branch libraries, offices, or places for the~~

S.B. NO. 2773

1 ~~distribution of books and periodicals throughout the State; make~~
2 ~~such contracts as may be necessary to carry into effect the~~
3 ~~general duties herein imposed; appoint such officers and~~
4 ~~employees as it deems necessary; and make rules for the~~
5 ~~management and use of libraries, and for the control of the~~
6 ~~property under its management]."~~

7 SECTION 4. Section 312-2, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§312-2 Powers of board; special fund.** The board of
10 education may:

11 (1) Except as provided in section 312-3.9, make
12 arrangements or contracts as are approved by the
13 governor, with any county, city, association, society,
14 person, or persons, for the purpose of benefiting the
15 libraries and increasing their facilities and use;

16 (2) Subject to section 26-12, enter into such arrangement
17 or contract as is approved by the governor, with the
18 Friends of the Library of Hawaii, for the purpose of
19 obtaining the use of books and property and income of
20 the Friends of the Library of Hawaii;

21 (3) Cooperate by exchange and otherwise with libraries now
22 existing or hereafter to be formed;

S.B. NO. 2773

1 (4) Receive, use, manage, or invest moneys or other
2 property, real, personal, or mixed which may be given,
3 bequeathed, devised, or in any manner received from
4 sources other than the legislature or any federal
5 appropriation for any or all purposes of the
6 libraries;

7 (5) Deposit with the director of finance in a special fund
8 all moneys donated to the board for library services;

9 (6) Unless otherwise provided for by the terms and
10 conditions of the donation, convert, at such time as
11 the board may at its sole discretion determine, any or
12 all donations of property, real, personal, or mixed,
13 into money to be deposited into the special fund; and

14 (7) Expend the moneys in the special fund in accordance
15 with the terms and conditions of each donation for the
16 purposes of the libraries.

17 The board shall be the trustee of the special fund and all
18 moneys therein shall be deemed to have been appropriated to the
19 use and for the purposes of the [~~board~~] Hawaii state public
20 library system in providing library services. Nothing in this
21 section shall be construed to limit the powers and duties of the
22 board hereinbefore expressed, or to empower the board to

1 obligate the State financially in any sum which shall not have
2 been appropriated by the legislature for the use of the board."

3 SECTION 5. Section 312-3, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§312-3 Exchange of librarians.** The [~~board of education~~]
6 state librarian may contract for the exchange of librarians with
7 librarians of any state, country, or territory in accordance
8 with this section, except as otherwise provided in section
9 78-27. Local librarians so exchanged shall be paid their
10 regular salaries out of the funds appropriated for personal
11 services in the library budget for the library concerned. The
12 qualifications of all librarians from any such state, country,
13 or territory so exchanged shall be equal to those of the local
14 librarians exchanged. In the selection of local librarians for
15 exchange, preference shall be given to persons born in the
16 State. The requirements of citizenship shall not apply to any
17 librarian coming to the State from any foreign state, country,
18 or territory under any such contract of exchange. All
19 librarians so exchanged shall furnish their own transportation
20 to and from the state, country, or territory with which
21 exchanged.

1 No compensation shall be paid by the State to visiting
2 exchange librarians; provided that in any case where the local
3 exchanged librarian becomes incapacitated or, for any reason,
4 leaves the exchanged position permanently, the library concerned
5 may pay the visiting exchange librarian an amount not to exceed
6 the salary rating of the local exchanged librarian, such an
7 arrangement to continue until the end of the period of exchange
8 or until such time as some satisfactory adjustment has been
9 made."

10 SECTION 6. Section 312-4.6, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) The [~~board of education~~] state librarian may charge
13 and add a fee to any amount due in accordance with [~~its~~] the
14 state librarian's duties and powers under section [~~312-1~~] 312-
15 for:

16 (1) Any cost or expense incurred by the Hawaii state
17 public library system as a result of any action taken
18 to enforce the collection of costs of lost books and
19 any overdue fines and fees charged to that patron
20 after the public library system has mailed written
21 notice demanding payment and advising that continued
22 failure to pay the amount due may result in collection

S.B. NO. 2773

1 action being taken, including the imposition of cost-
2 recovery fees, not to exceed \$10, pursuant to this
3 section. Any cost-recovery fee charged against the
4 patron for costs, fees, and other charges may include
5 collection agency fees, attorneys' fees, court filing
6 fees, and similar fees incurred by the Hawaii state
7 public library system in connection with the
8 collection action;

9 (2) Hawaii public library system sponsored seminars or
10 workshops, including educational materials in various
11 media format; and

12 (3) Research and reference materials published on magnetic
13 media, CD-ROM, or other [~~machine-readable~~] digital or
14 electronic form."

15 SECTION 7. Section 312-4.6, Hawaii Revised Statutes, is
16 amended by amending subsection (d) to read as follows:

17 "(d) The [~~board of education~~] state librarian shall
18 prescribe the procedures relating to:

19 (1) The charging of fees;

20 (2) The waiver of fees;

21 (3) The documents, materials, and services for which fees
22 may be charged;

S.B. NO. 2773

- 1 (4) The amount of the fees that may be assessed and
2 charged to a library patron;
- 3 (5) The accumulated amount of lost library material costs,
4 fines, or fees;
- 5 (6) The period of time that the lost library materials
6 costs, fines, or fees must remain unpaid before they
7 may be referred to a collection agency for collection
8 pursuant to rules adopted under chapter 91; and
- 9 (7) The notification of persons with delinquent accounts
10 of the additional fees to be charged by the collection
11 agency prior to the referral to the collection
12 agency."

13 SECTION 8. Section 312-5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§312-5 Annual report to the governor.** Annually during
16 the month of July but as of June 30 preceding, the [~~board of~~
17 ~~education~~] state librarian shall report to the governor the
18 moneys received from all sources and expended for all purposes
19 during the preceding year, and any other matters pertaining to
20 the libraries which it may deem important, or the governor may
21 require."

1 SECTION 9. Section 312-21, Hawaii Revised Statutes, is
2 amended by amending subsection (a) as follows:

3 "(a) The [~~board of education, through the~~] state
4 librarian[~~r~~] shall:

5 (1) Provide for the establishment and ongoing operation of
6 a fee for enhanced service program, which includes but
7 is not limited to the planning, programming, and
8 budgeting of operating, research and development, and
9 capital investment programs; and

10 (2) Administer a special fund to be known as the "library
11 fee for enhanced services special fund".

12 SECTION 10. Section 312-6, Hawaii Revised Statutes, is
13 repealed.

14 [~~"§312-6 Bond memorial library. The public library
15 operated and maintained in Kohala, North Kohala, county of
16 Hawaii, formerly under the name of Kohala Public Library shall
17 be designated and known as the "Bond Memorial Library"."]~~

18 SECTION 11. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

S.B. NO. 2773

1 SECTION 12. This Act shall take effect upon its approval.

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INTRODUCED BY: *DeB. T. 2.*

4

BY REQUEST

S.B. NO. 2773

Report Title:

Hawaii State Public Library System; State Librarian

Description:

Update Hawaii Revised Statutes, chapter 312 so it accurately reflects long-standing State Board of Education and Hawaii State Public Library System practice.

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

JUSTIFICATION SHEET

DEPARTMENT: HAWAII STATE PUBLIC LIBRARY SYSTEM

TITLE: RELATING TO LIBRARIES.

PURPOSE: To update chapter 312, Hawaii Revised Statutes (HRS) so it accurately reflects long-standing state board of education and Hawaii state public library system practice.

MEANS: Add a new section to chapter 312 amend sections 312-1, 312-2, 312-3, 312-4.6(a) and (d), 312-5, and 312-21(a), and repeal section 312-6, Hawaii Revised Statutes (HRS).

JUSTIFICATION: Chapter 312, HRS, assigns various duties and responsibilities to the state board of education. In practice, the board does not, and has not, performed these duties and responsibilities; they have been delegated to the state librarian and the Hawaii state public library system. This bill will amend chapter 312, HRS, so that it more accurately reflects the duties and responsibilities of the Board of Education, Hawaii State Public Library System, and the State Librarian.

This bill also allows the state librarian to appoint the state librarian's private secretary, and repeals section 312-6, HRS, relating to Bond Memorial Library, which was replaced by North Kohala Public Library in November 2010.

Impact on the public: None.

Impact on the department and other agencies: Duties and responsibilities currently assigned to the state board of education will be assigned to the state librarian and the Hawaii state public library system.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: EDN 407.

OTHER AFFECTED
AGENCIES: Hawaii State Board of Education.

EFFECTIVE DATE: Upon approval.