

JAN 22 2015

A BILL FOR AN ACT

RELATING TO GOVERNMENT OPERATIONS.

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

1 SECTION 1. The purpose of this Act is to repeal and amend
2 sections of part VIII of Act 51, Session Laws of Hawaii 2004,
3 and transfer certain functions of the department of education to
4 the department of accounting and general services and the
5 department of human resources development, respectively.

6 SECTION 2. Section 36-35, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending subsections (a) and (b) to read:

9 "(a) There is created in the state general fund under [EDN
10 ~~400 (school support)~~] AGS 807 (school r&m, neighbor island
11 districts) the state educational facilities repair and
12 maintenance account, into which shall be deposited legislative
13 appropriations to the account designated for use solely to
14 eliminate the backlog of school repair and maintenance projects,
15 including the repair or replacement of fixtures, furnishings,
16 and equipment, existing on June 30, 2000. Expenditures from the
17 account shall be subject to sections 37-31 and 37-33 to 37-40.



1 Based on the prioritization approved by the department of
2 education, appropriations or authorizations from the account
3 shall be expended by the [~~superintendent of education.~~]
4 comptroller.

5 (b) The department of education, with the assistance of
6 the department of accounting and general services, shall review
7 the existing condition of school facilities and establish
8 specific vision plans for each school complex based on current
9 repair and maintenance requirements and overall repair and
10 maintenance priorities."

11 2. By amending subsections (e), (f), and (g) to read:

12 "(e) The expenditure of funds for any project with an
13 estimated total cost of less than \$100,000 shall be exempt from
14 section 464-4; provided that:

15 (1) The [~~superintendent of education~~] comptroller shall
16 develop internal policies and procedures for the
17 procurement of goods, services, and construction,
18 consistent with the goals of public accountability and
19 public procurement practices;

20 (2) Insofar as is practical, and based on specifications
21 developed, adequate and reasonable competition of no



1 fewer than three proposals shall be solicited for each
2 project, based on rules adopted by the [~~superintendent~~
3 ~~of education,~~] comptroller;

4 (3) Considering all factors, including quality, warranty,
5 and delivery, the award shall be made to the vendor
6 with the most advantageous proposal;

7 (4) The procurement requirements shall not be artificially
8 divided or parceled so as to avoid competitive bidding
9 or competitive proposals; and

10 (5) Formal design for projects shall be done when there is
11 a clear need to preserve structural integrity, health
12 and safety, or to clearly communicate construction
13 requirements.

14 For all projects, the [~~superintendent of education~~]
15 comptroller shall develop a strategy for the efficient and cost-
16 effective use of government and private-sector workforces and
17 consider increased flexibility through public-private
18 partnering, design-build options, cost plus, job order
19 contracts, performance-based contracts, request for proposals,
20 and any other means to improve communications and accelerate
21 repairs while preserving the quality of the repairs.



1 (f) The [~~superintendent of education~~] comptroller shall
2 ensure that all repair and maintenance projects achieve maximum
3 cost-efficiency by emphasizing functional or performance
4 criteria, uniformity of design, and commonality of products, and
5 by avoiding unique or custom requirements that increase costs.
6 The [~~superintendent of education~~] comptroller shall develop
7 project specifications based on generic specifications or
8 prescriptive specifications using standard commercial products.
9 Prescriptive specifications may include a qualified product
10 list.

11 For the purposes of this subsection:

12 "Generic specification" means a technical specification
13 that is written in a clear, unambiguous, and nonrestrictive
14 manner establishing:

- 15 (1) Design, performance, or functional requirements to
16 identify the work to be performed; and
17 (2) Material standards to be used on a project.

18 "Prescriptive specification" means a technical
19 specification:



1 (1) Establishing that the required work to be performed is
2 written in a clear, unambiguous, and nonrestrictive
3 manner; and

4 (2) Listing manufacturers or products that are acceptable
5 for use on the project.

6 "Standard commercial product" means a product or material
7 that in the normal course of business is customarily maintained
8 in stock by, or readily available for marketing from a
9 manufacturer, distributor, or dealer.

10 This subsection shall not apply to any school facility
11 designated a historic property pursuant to section 6E-5.5.

12 (g) The [~~superintendent of education~~] comptroller shall
13 submit an annual report to the legislature, which shall include
14 a financial statement of the account and the status of repair
15 and maintenance projects undertaken pursuant to this section, no
16 later than twenty days prior to the convening of each regular
17 session. Expenditures for repair and maintenance projects
18 undertaken pursuant to this section shall be posted
19 electronically on the Internet by the department of [~~education~~]
20 accounting and general services within thirty days of each
21 project's completion."



1 SECTION 3. Section 36-36, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) There is created in the state general fund under [~~EDN~~
5 ~~400 (school support)~~] AGS 807 (school r&m, neighbor island
6 districts) the school physical plant operations and maintenance
7 account, into which shall be deposited all legislative
8 appropriations to the account.

9 The moneys in the account shall be used solely for school
10 repairs and preventive maintenance projects scheduled after
11 June 30, 2001. Expenditures from the account shall be subject
12 to sections 37-31 and 37-33 to 37-40. Based on the
13 prioritization approved by the department of education,
14 appropriations or authorizations from the account shall be
15 expended by the [~~superintendent of education.~~] comptroller."

16 2. By amending subsections (d) and (e) to read:

17 "(d) The expenditure of funds made under this Act for any
18 project with an estimated total cost of less than \$100,000 shall
19 be exempt from section 464-4; provided that:

20 (1) The [~~superintendent of education~~] comptroller shall
21 develop internal policies and procedures for the



1 procurement of goods, services, and construction,
2 consistent with the goals of public accountability and
3 public procurement practices, subject to chapter 103D;

4 (2) Insofar as is practical, and based on specifications
5 developed, adequate and reasonable competition of no
6 fewer than three quotations shall be solicited for
7 each project based on rules adopted by the
8 [~~superintendent of education,~~] comptroller;

9 (3) Considering all factors, including quality, warranty,
10 and delivery, the award shall be made to the vendor
11 with the most advantageous quotation;

12 (4) The procurement requirements shall not be artificially
13 divided or parceled so as to avoid competitive bidding
14 or competitive proposals; and

15 (5) Formal design for projects shall be done when there is
16 a clear need to preserve structural integrity, health
17 and safety, or to clearly communicate construction
18 requirements.

19 (e) The department of accounting and general services
20 shall annually post on its website information related to a
21 financial statement of the account and the status of school



1 repair and preventive maintenance projects undertaken pursuant
2 to this section, no later than twenty days prior to the
3 convening of each regular session. The department of
4 ~~[education]~~ accounting and general services shall also post the
5 following information on its website and update the information
6 quarterly:

7 (1) Expenditures for school repair and preventive
8 maintenance projects undertaken pursuant to this
9 section, shall be posted within thirty days of each
10 project's completion; and

11 (2) A list of each school's repair and maintenance needs
12 to be undertaken."

13 SECTION 4. Section 37-41.5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 **"§37-41.5 Department of education; carryover of funds.**

16 (a) The department of education may retain up to five per cent
17 of any appropriation, except for appropriations to fund
18 financing agreements entered into in accordance with chapter
19 37D, for the school based budgeting program EDN 100 and for the
20 special education and student support services program EDN 150
21 at the close of a fiscal year and the funds retained shall not



1 lapse until June 30 of the first fiscal year of the next fiscal
2 biennium. The department of education shall submit:

3 (1) A report to the director of finance ninety days after
4 the close of each fiscal year, which shall be prepared
5 in the form prescribed by the director of finance and
6 shall identify the total amount of funds that will
7 carry over to the next fiscal year; and

8 (2) A copy of this report to the legislature, as well as a
9 report identifying the carryover of funds on a school-
10 by-school basis, at least twenty days prior to the
11 convening of the next regular session of the
12 legislature.

13 (b) ~~Appropriations~~ Any appropriation retained in
14 accordance with this section shall be used exclusively for the
15 school based budgeting program EDN 100 and the special education
16 and student support services program EDN 150, and of those
17 appropriations allocated to the schools, moneys shall remain
18 within the budget of the school to which they were originally
19 allocated; provided that the retention of an appropriation shall
20 not be used by the department as a basis for reducing a school's
21 future budget requirements."



1 SECTION 5. Section 37-74, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) No appropriation transfers or changes between
4 programs or agencies shall be made without legislative
5 authorization; provided that:

6 (1) Authorized transfers or changes, when made, shall be
7 reported to the legislature;

8 (2) Except with respect to appropriations to fund
9 financing agreements under chapter 37D, the University
10 of Hawaii shall have the flexibility to transfer
11 appropriated funds and positions for the operating
12 cost category among programs, among cost elements in a
13 program, and between quarters, as applicable; [~~except
14 with respect to appropriations to fund financing
15 agreements under chapter 37D, the department of
16 education shall have the flexibility to transfer
17 appropriated funds and positions for the operating
18 cost category among programs and among cost elements
19 in a program, and between quarters, as applicable,]~~
20 and the Hawaii health systems corporation and its
21 regional system boards shall have the flexibility to



1 transfer special fund appropriations among regional
2 system hospital facilities as applicable and as
3 mutually agreed to by the corporation and the
4 respective regional system board; provided that the
5 Hawaii health systems corporation and the regional
6 system boards shall maintain the integrity and
7 services of each individual regional system and shall
8 not transfer appropriations out of any regional system
9 that would result in a reduction of services offered
10 by the regional system, with due regard for statutory
11 requirements, changing conditions, the needs of the
12 programs, and the effective utilization of resources;
13 and

14 (3) The university [~~and the department of education~~] shall
15 account for each transfer implemented under this
16 subsection in quarterly reports to the governor and
17 annual reports at the end of each fiscal year to the
18 legislature and the governor, which shall be prepared
19 in the form and manner prescribed by the governor and
20 shall include information on the sources and uses of
21 the transfer."



1 SECTION 6. Act 51, Session Laws of Hawaii 2004, is amended
2 by repealing section 44.

3 [~~"SECTION 44. All the rights, powers, functions, duties,
4 and resources, excluding positions unless transferred under the
5 Supplementary Appropriations Act of 2004, of the department of
6 accounting and general services relating to school physical
7 plant operations and maintenance, including moneys in:~~

8 ~~(1) The state educational facilities repair and
9 maintenance account; and~~

10 ~~(2) The school physical plant operations and maintenance
11 account;~~

12 ~~are transferred to the department of education effective July 1,
13 2004."]~~

14 SECTION 7. Act 51, Session Laws of Hawaii 2004, is amended
15 by repealing section 45.

16 [~~"SECTION 45. All the rights, powers, functions, duties,
17 and personnel relating to the Hawaii 3R's school repair and
18 maintenance fund, are transferred to the department of education
19 effective July 1, 2004."]~~



1 SECTION 8. Act 51, Session Laws of Hawaii 2004, as amended
2 by Act 61, Session Laws of Hawaii 2012, is amended by repealing
3 section 46.

4 [~~SECTION 46. (a) All the rights, powers, functions,
5 duties, and resources of:~~

6 ~~(1) The department of accounting and general services
7 relating to capital improvement programs, including
8 the:~~

9 ~~(A) Expending of capital improvement funds for the
10 acquisition and development of land, the design
11 and construction of new facilities, and the
12 making of renovations or additions to existing
13 facilities, including moneys in the state
14 educational facilities improvement special fund;
15 and~~

16 ~~(B) Buying, purchasing, renting, leasing, or
17 otherwise acquiring of any good, service, or
18 construction, including the description of
19 requirements, selection and solicitation of
20 sources, preparation and awarding of contracts,~~



1 ~~payment of vendors, and all other phases of~~
2 ~~contract administration;~~

3 ~~(2) The department of accounting and general services~~
4 ~~relating to repair and maintenance functions not~~
5 ~~transferred to the department of education under~~
6 ~~section 44 of this Act; and~~

7 ~~(3) The department of human resources development relating~~
8 ~~to the:~~

9 ~~(A) Operation of a centralized human resources system~~
10 ~~that encompasses the classes of work performed by~~
11 ~~department of education employees, and that~~
12 ~~integrates payroll, records, transactions,~~
13 ~~leaves, and reports; and~~

14 ~~(B) Recruitment, certification, examination,~~
15 ~~management, classification, and compensation of~~
16 ~~department of education employees, including~~
17 ~~labor relations;~~

18 ~~are transferred to the department of education effective July 1,~~
19 ~~2005, subject to repeal by subsequent legislation.~~

20 ~~(b) All moneys budgeted in support of each position to be~~
21 ~~transferred to the department of education, including moneys for~~



1 ~~direct and indirect employee benefits, are transferred to the~~
2 ~~department of education effective July 1, 2005, subject to~~
3 ~~repeal by subsequent legislation.~~

4 ~~(c) This section shall not apply to the Hawaii state~~
5 ~~public library system and its employees."]~~

6 SECTION 9. Act 51, Session Laws of Hawaii 2004, as amended
7 by Act 225, Session Laws of Hawaii 2006 and Act 99, Session Laws
8 of 2007, is amended by amending section 48 to read as follows:

9 "SECTION 48. All resources, appropriations, records,
10 equipment, databases, software, programming, machines, files,
11 supplies, contracts, books, papers, documents, maps, and other
12 personal property heretofore made, used, acquired, or held by
13 ~~[the department of accounting and general services and]~~ the
14 department of health relating to the functions transferred to
15 the department of education shall be transferred with the
16 functions to which they relate."

17 SECTION 10. Act 51, Session Laws of Hawaii 2004, is
18 amended by repealing section 49.

19 ~~["SECTION 49. No later than July 1, 2005, the board of~~
20 ~~education shall adopt a single school calendar for all public~~
21 ~~schools beginning with the 2006-2007 school year, provided that~~



1 ~~this section shall not apply to multi-track schools, new century~~
2 ~~charter schools, and new century conversion charter schools."]~~

3 SECTION 11. All the rights, powers, functions, duties, and
4 resources of the department of education relating to school
5 physical plant operations and maintenance, including moneys in:

6 (1) The state educational facilities repair and
7 maintenance account; and

8 (2) The school physical plant operations and maintenance
9 account;

10 are transferred to the department of accounting and general
11 services effective July 1, 2015.

12 SECTION 12. All the rights, powers, functions, duties, and
13 personnel relating to the Hawaii 3R's school repair and
14 maintenance fund, are transferred to the department of
15 accounting and general services effective July 1, 2015.

16 SECTION 13. (a) All the rights, powers, functions,
17 duties, and resources of the department of education relating to
18 capital improvement programs, including the:

19 (1) Expending of capital improvement funds for the
20 acquisition and development of land, the design and
21 construction of new facilities, and the making of



1 renovations or additions to existing facilities,
2 including moneys in the state educational facilities
3 improvement special fund; and

4 (2) Buying, purchasing, renting, leasing, or otherwise
5 acquiring of any good, service, or construction,
6 including the description of requirements, selection
7 and solicitation of sources, preparation and awarding
8 of contracts, payment of vendors, and all other phases
9 of contract administration;

10 are transferred to the department of accounting and general
11 services effective July 1, 2015.

12 (b) All the rights, powers, functions, duties, and
13 resources of the department of education relating to repair and
14 maintenance functions not transferred to the department of
15 accounting and general services under section 13 of this Act are
16 transferred to the department of accounting and general services
17 effective July 1, 2015.

18 (c) All moneys budgeted in support of each position to be
19 transferred to the department of accounting and general
20 services, including moneys for direct and indirect employee



1 benefits, are transferred to the department of accounting and
2 general services effective July 1, 2015.

3 SECTION 14. (a) All the rights, powers, functions,
4 duties, and resources of the department of education relating to
5 the:

6 (1) Operation of a centralized human resources system that
7 encompasses the classes of work performed by
8 department of education employees, and that integrates
9 payroll, records, transactions, leaves, and reports;
10 and

11 (2) Recruitment, certification, examination, management,
12 classification, and compensation of department of
13 education employees, including labor relations;
14 are transferred to the department of human resources development
15 effective July 1, 2015.

16 (b) All moneys budgeted in support of each position to be
17 transferred to the department of human resources development,
18 including moneys for direct and indirect employee benefits, are
19 transferred to the department of human resources development
20 effective July 1, 2015.



1 (c) This section shall not apply to the Hawaii state
2 public library system and its employees.

3 SECTION 15. Effective July 1, 2015, all appropriations,
4 records, equipment, machines, files, supplies, contracts, books,
5 papers, documents, maps, and other personal property heretofore
6 made, used, acquired, or held by the department of education
7 relating to the functions transferred to the department of
8 accounting and general services and the department of human
9 services development, respectively, shall be transferred with
10 the functions to which they relate.

11 SECTION 16. Effective July 1, 2015, all employees who
12 occupy civil service positions and whose functions are
13 transferred to the department of accounting and general services
14 and the department of human resources, respectively, by this Act
15 shall retain their civil service status, whether permanent or
16 temporary. Employees shall be transferred without loss of
17 salary, seniority (except as prescribed by applicable collective
18 bargaining agreements), retention points, prior service credit,
19 any vacation and sick leave credits previously earned, and other
20 rights, benefits, and privileges, in accordance with state
21 personnel laws and this Act; provided that the employees possess



1 the minimum qualifications and public employment requirements
2 for the class or position to which transferred or appointed, as
3 applicable; provided further that subsequent changes in status
4 may be made pursuant to applicable civil service and
5 compensation laws.

6 Any employee who, prior to this Act, is exempt from civil
7 service and is transferred as a consequence of this Act may
8 retain the employee's exempt status, but shall not be appointed
9 to a civil service position as a consequence of this Act. An
10 exempt employee who is transferred by this Act shall not suffer
11 any loss of prior service credit, vacation or sick leave credits
12 previously earned, or other employee benefits or privileges as a
13 consequence of this Act; provided that the employees possess
14 legal and public employment requirements for the position to
15 which transferred or appointed, as applicable; provided further
16 that subsequent changes in status may be made pursuant to
17 applicable employment and compensation laws. The comptroller
18 and the director of human resources development, respectively,
19 may prescribe the duties and qualifications of these employees
20 and fix their salaries without regard to chapter 76, Hawaii
21 Revised Statutes.




1 SECTION 17. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 18. This Act shall take effect on July 1, 2015.

4

INTRODUCED BY:

~~SEN. SC. FISH~~ 



S.B. NO. 167

Report Title:

DOE; DAGS; DHRD; State Educational Facilities; Government Operations

Description:

Repeals sections of part VIII, Act 51, Session Laws of Hawaii 2014. Transfers rights and resources related to capital improvement programs, repair and maintenance functions, and operation of a central human resources system for DOE employees from DOE to DAGS and DHRD, respectively.

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