
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, and the transportation of school
7 children. Prior to the passage of Act 97, Session Laws of
8 Hawaii 1965, the counties issued bonds to plan, construct,
9 improve, and maintain public school facilities and grounds.
10 Since these functions are now wholly the responsibility of the
11 State, it only makes sense to begin transferring all remaining
12 county lands and improvements under the department of education
13 to the State.

14 Act 154, Session Laws of Hawaii 2003, conveyed fee simple
15 title of all county of Hawaii lands being used by the department
16 of education to the State. The county of Hawaii was the only



1 county for which legislation was passed to convey the fee simple
2 interest in its properties to the State.

3 The State of Hawaii's department of education has invested
4 significant public funds on the maintenance and capital
5 improvement projects for new school facilities. The expenditure
6 of these public funds was done without regard to the underlying
7 fee ownership of the property. If the school is on county land,
8 this investment in vertical improvements is transferred to the
9 county when a school is closed, which is what happened when
10 Wailupe elementary school closed.

11 The legislature further finds that Act 155, Session Laws of
12 Hawaii 2013, provided the department of education with the
13 authority to develop its assets to create twenty-first century
14 schools. Act 155 also allowed the department of education to
15 explore different mechanisms to redevelop its assets, including
16 revenue generation in support of investments in twenty-first
17 century schools.

18 The legislature additionally finds that the department of
19 education is responsible for approximately 2,120 acres
20 (92,353,688 square feet) of land under its school facilities
21 within the city and county of Honolulu. Of this total land



1 area, the city and county of Honolulu owns approximately one-
2 half of the land under the existing school facilities,
3 approximately one thousand and four acres (43,753,360 square
4 feet).

5 The legislature finds that the split ownership of the
6 underlying fee simple lands under existing schools creates
7 problems for redevelopment, especially when private investment
8 is involved. In order to allow the department of education
9 flexibility to redevelop or reposition its assets, especially
10 along the rail transit corridor, the State should consolidate
11 ownership of the lands under existing public schools.

12 In addition, from an asset management standpoint, the
13 department of education should also be given the authority and
14 responsibility to own the real property on which its educational
15 facilities are located. This will allow the department to
16 maximize the value of its real estate assets as it seeks to
17 redevelop and reposition public educational facilities in the
18 future.

19 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
20 amended by adding a new section to be appropriately designated
21 and to read as follows:



1 "§302A- Public school real property, acquisition, use,
2 and disposition of property. (a) The department may acquire or
3 contract to acquire by grant or purchase any real, personal, or
4 mixed property or any interest therein for its immediate or
5 future use for public educational purposes, including lease
6 revenues; and own, hold, improve, and rehabilitate any real,
7 personal, or mixed property acquired, and sell, assign,
8 exchange, transfer, convey, lease, or otherwise dispose of, or
9 encumber the same; provided that the department shall incur all
10 fees and costs associated with the redevelopment of any land,
11 including fees and costs for subdividing land or creating
12 condominium property regimes.

13 (b) The department may by itself, or in partnership with
14 qualified persons, acquire, construct, reconstruct,
15 rehabilitate, improve, alter, or repair any infrastructure or
16 accessory facilities in connection with any project; and own,
17 hold, sell, assign, transfer, convey, exchange, lease, or
18 otherwise dispose of, or encumber any project.

19 (c) The department may lease or rent all or a portion of
20 any real property acquired for public educational purposes and
21 establish and revise the rents or charges therefor. The



1 department shall sell, exchange, transfer, assign, or pledge any
2 property, real or personal, or any interest therein only to a
3 government entity.

4 (d) The department may insure or provide for the insurance
5 of its property or operations against risks as it deems
6 advisable.

7 (e) For purposes of this section:

8 "Land" or "property" includes vacant land or land with site
9 improvements, whether partially or entirely finished in
10 accordance with governmental subdivision standards, or with
11 complete dwellings.

12 "Public educational purposes" includes any use of the
13 property, including revenue generation, that would benefit the
14 department's mission to provide public education to students in
15 the State.

16 "Real property" includes lands, land under water,
17 structures, and any and all easements, franchises, and
18 incorporeal hereditaments and every estate and right therein,
19 legal and equitable, including terms for years and liens by way
20 of judgment, mortgage, or otherwise."



1 SECTION 3. Section 171-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§171-2 Definition of public lands.** "Public lands" means
4 all lands or interest therein in the State classed as government
5 or crown lands previous to August 15, 1895, or acquired or
6 reserved by the government upon or subsequent to that date by
7 purchase, exchange, escheat, or the exercise of the right of
8 eminent domain, or in any other manner; including lands accreted
9 after May 20, 2003, and not otherwise awarded, submerged lands,
10 and lands beneath tidal waters that are suitable for
11 reclamation, together with reclaimed lands that have been given
12 the status of public lands under this chapter, except:

- 13 (1) Lands designated in section 203 of the Hawaiian Homes
14 Commission Act, 1920, as amended;
- 15 (2) Lands set aside pursuant to law for the use of the
16 United States;
- 17 (3) Lands being used for roads and streets;
- 18 (4) Lands to which the United States relinquished the
19 absolute fee and ownership under section 91 of the
20 Hawaiian Organic Act prior to the admission of Hawaii
21 as a state of the United States unless subsequently



1 placed under the control of the board of land and
2 natural resources and given the status of public lands
3 in accordance with the state constitution, the
4 Hawaiian Homes Commission Act, 1920, as amended, or
5 other laws;

6 (5) Lands to which the University of Hawaii holds title;

7 (6) Lands to which the Hawaii housing finance and
8 development corporation in its corporate capacity
9 holds title;

10 (7) Lands to which the Hawaii community development
11 authority in its corporate capacity holds title;

12 (8) Lands to which the department of agriculture holds
13 title by way of foreclosure, voluntary surrender, or
14 otherwise, to recover moneys loaned or to recover
15 debts otherwise owed the department under chapter 167;

16 (9) Lands that are set aside by the governor to the Aloha
17 Tower development corporation; lands leased to the
18 Aloha Tower development corporation by any department
19 or agency of the State; or lands to which the Aloha
20 Tower development corporation holds title in its
21 corporate capacity;



1 (10) Lands that are set aside by the governor to the
2 agribusiness development corporation; lands leased to
3 the agribusiness development corporation by any
4 department or agency of the State; or lands to which
5 the agribusiness development corporation in its
6 corporate capacity holds title; [~~and~~]

7 (11) Lands to which the high technology development
8 corporation in its corporate capacity holds title; and

9 (12) Lands to which the department of education holds
10 title;

11 provided that, except as otherwise limited under federal law and
12 except for state land used as an airport as defined in section
13 262-1, public lands shall include the air rights over any
14 portion of state land upon which a county mass transit project
15 is developed after July 11, 2005."

16 SECTION 4. (a) Notwithstanding any law to the contrary,
17 the following lands, the fee simple interest in the following
18 parcels of land, with the existing improvements thereon, shall
19 be conveyed by the city and county of Honolulu and department of
20 land and natural resources, as appropriate, to the department of
21 education:



- 1 (1) TMK 1-9-4-59-72, 1-9-4-59-73, 1-9-4-59-74 (August
- 2 Ahrens Elementary);
- 3 (2) TMK 1-9-1-115-13 (Ewa Beach Elementary);
- 4 (3) TMK 1-9-1-17-2, 1-9-1-17-37 (Ewa Elementary);
- 5 (4) TMK 1-9-7-36-124 (Highlands Intermediate);
- 6 (5) TMK 1-9-1-1-2 (portion) (Ilima Intermediate);
- 7 (6) TMK 1-9-1-1-3 (Iroquois Point Elementary);
- 8 (7) TMK 1-9-1-1-22 (Kaimiloa Elementary);
- 9 (8) TMK 1-9-7-93-16 (portion) (Palisades Elementary; 5.117
- 10 acres);
- 11 (9) TMK 1-9-7-24-2, 1-9-7-94-20 (Pearl City Elementary);
- 12 (10) TMK 1-9-7-36-122 (Pearl City Highlands Elementary);
- 13 (11) TMK 1-9-1-1-2 (portion) (Pohakea Elementary);
- 14 (12) TMK 1-9-4-10-40, 1-9-4-10-98, 1-9-4-29-1 (Waipahu
- 15 Elementary);
- 16 (13) TMK 1-9-4-1-29 (portion), 1-9-4-1-30 (Waipahu
- 17 Intermediate);
- 18 (14) TMK 1-1-1-10-33 (portion), 1-1-1-10-41 (Aliamanu
- 19 Elementary);
- 20 (15) TMK 1-1-1-10-33 (portion) (Aliamanu Intermediate);
- 21 (16) TMK 1-9-8-29-2, 1-9-8-29-29 (Alvah Scott Elementary);



- 1 (17) TMK 1-1-1-34-42 (Moanalua Elementary);
- 2 (18) TMK 1-1-1-9-5 (portion) (Moanalua Intermediate);
- 3 (19) TMK 1-1-1-2-6 (Nimitz Elementary);
- 4 (20) TMK 1-1-1-10-27 (Pearl Harbor Elementary);
- 5 (21) TMK 1-9-8-8-7 (portion) (Waimalu Elementary);
- 6 (22) TMK 1-3-6-11-9 (portion) (Aina Haina Elementary);
- 7 (23) TMK 3-4-004-002, 3-4-004-006, 3-4-004-007, 3-4-004-
- 8 049(portion) (Anuenue Elementary);
- 9 (24) TMK 2-1-005-001 (portion), 2-1-005-002, 2-1-009-001,
- 10 2-1-009-002, 2-1-009-003 (Central Intermediate);
- 11 (25) TMK 1-3-024-004, 1-3-024-005 (Dole Intermediate);
- 12 (26) TMK 1-3-001-017, 1-3-001-023, 1-3-001-058 (Fern
- 13 Elementary);
- 14 (27) TMK 3-9-038-001 (portion) (Hahaione Elementary);
- 15 (28) TMK 2-8-029-010, 2-8-029-11 (Hokulani Elementary);
- 16 (29) TMK 2-4-012-001, 2-4-012-002 (Kaahumanu Elementary);
- 17 (30) TMK 1-3-024-001, 1-3-024-002 (Kaewai Elementary);
- 18 (31) TMK 3-5-011-027 (Kahala Elementary);
- 19 (32) TMK 3-2-059-002 (Kaimuki Intermediate);
- 20 (33) TMK 1-5-024-029, 1-5-024-040, 1-5-024-001, 1-5-025-002
- 21 (portion) (Kalakaua Intermediate);



- 1 (34) TMK 1-4-007-002 (portion) (Kalihi Elementary);
- 2 (35) TMK 1-5-025-002 (portion), 1-5-028-075 (Kalihi-Kai
- 3 Elementary);
- 4 (36) TMK 1-3-035-001 (portion), 1-3-036-015, 1-3-036-079
- 5 (Kalihi-Uka Elementary);
- 6 (37) TMK 3-9-005-061 (Kamiloiki Elementary);
- 7 (38) TMK 1-6-026-022 (Kapalama Elementary);
- 8 (39) TMK 1-7-023-041, 1-7-023-042 (Kauluwela Elementary);
- 9 (40) TMK 2-2-009-011, 2-2-009-013 (Kawananakoa
- 10 Intermediate);
- 11 (41) TMK 3-9-022-037 (Koko Head Elementary);
- 12 (42) TMK 2-7-017-029, 2-7-017-030, 2-7-027-010, 2-7-027-022
- 13 (Kuhio Elementary);
- 14 (43) TMK 1-7-042-001 (Lanakila Elementary);
- 15 (44) TMK 3-2-021-035 (Liholiho Elementary);
- 16 (45) TMK 1-6-008-016, 1-6-008-021, 1-6-008-022, 1-6-008-
- 17 023, 1-6-008-024, 1-6-008-038, 1-6-008-058 (Likelike
- 18 Elementary);
- 19 (46) TMK 1-3-039-005 (Linapuni Elementary);
- 20 (47) TMK 2-3-030-052, 2-3-030-055, 2-3-030-056 (Lunalilo
- 21 Elementary);



- 1 (48) TMK 2-9-036-003 (portion) (Manoa Elementary);
- 2 (49) TMK 3-7-003-010 (portion), 3-7-003-067 (Niu Valley
- 3 Intermediate);
- 4 (50) TMK 2-9-023-023 (Noelani Elementary);
- 5 (51) TMK 2-2-043-011 (Nuuanu Elementary);
- 6 (52) TMK 3-4-002-001, 3-4-002-002 (Palolo Elementary);
- 7 (53) TMK 2-2-016-020 (Pauoa Elementary);
- 8 (54) TMK 1-2-008-001 (Puuhale Elementary);
- 9 (55) TMK 3-2-045-003 (Waiialae Elementary);
- 10 (56) TMK 3-1-025-001 (Waikiki Elementary);
- 11 (57) TMK 2-3-026-001 (Washington Intermediate); and
- 12 (58) TMK 3-5-017-012 (portion) (Wilson Elementary).

13 (b) Conveyance of the parcels of land listed in subsection
 14 (a) shall be effective on .

15 SECTION 5. Lands conveyed under this Act shall contain a
 16 provision that shall allow the underlying fee simple interest in
 17 the property to revert back to the city and county of Honolulu
 18 or to the department of land and natural resources, as
 19 appropriate, if the land is not used for "public educational
 20 purposes". For the purpose of this Act, "public educational
 21 purposes" shall include any use of the property, including



1 revenue generation, that would benefit the department of
2 education's mission to provide public education to students in
3 Hawaii.

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

6 SECTION 7. This Act shall take effect on July 1, 2050.



Report Title:

Transfer of Land; Department of Education; Property; Title;
Public Schools

Description:

Transfers fee interest in certain public school lands from the City and County of Honolulu and the Department of Land and Natural Resources, as applicable, to the Department of Education. Exempts transferred lands from classification as public lands. (SB2237 HD1)

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