
A BILL FOR AN ACT

RELATING TO PUBLIC SCHOOLS.

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

1 **PART I**

2 SECTION 1. The legislature finds that Act 97, Session Laws
3 of Hawaii 1965, transferred the responsibility for functions
4 that were deemed to be of statewide concern from the counties to
5 the State. Among these functions were the planning,
6 construction, improvement, and maintenance of public school
7 facilities and grounds, and the transportation of school
8 children. Prior to the passage of Act 97, Session Laws of
9 Hawaii 1965, the counties issued bonds to plan, construct,
10 improve, and maintain public school facilities and grounds.
11 Since these functions are now wholly the responsibility of the
12 State, it only makes sense to begin transferring all remaining
13 county lands and improvements under the department of education
14 to the State.

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



1 county to have legislation 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 four acres (43,753,360 square feet).

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

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

18 The purpose of this Act is to:

19 (1) Transfer parcels of property containing schools
20 operated by the department of education that are
21 currently owned, operated, maintained, and managed by



1 the city and county of Honolulu, some of which are
2 public park lands;

3 (2) Give the department of education the power to acquire
4 and hold title to real, personal, or mixed property
5 for use for public educational purposes; and

6 (3) Require legislative approval prior to the sale or gift
7 of lands to which the department of education holds
8 title.

9 **PART II**

10 SECTION 2. (a) Notwithstanding any other law to the
11 contrary, the fee simple interest to the following parcels of
12 land with the existing improvements thereon (hereinafter "the
13 properties") (but not including submerged land, accreted land,
14 or any land makai of the shoreline), shall be conveyed by the
15 city and county of Honolulu to the department of education as
16 grantee, as is, where is:

- 17 (1) TMK 1-4-4-3-16 (Aikahi elementary);
- 18 (2) TMK 1-4-5-16-1 (Ben Parker elementary);
- 19 (3) TMK 1-4-2-2-37 (portion) (Enchanted Lake elementary);
- 20 (4) TMK 1-4-6-31-20 (Heeia elementary);
- 21 (5) TMK 1-4-7-12-24 (portion) (Kahaluu elementary);



- 1 (6) TMK 1-4-3-56-9 (portion) (Kailua elementary);
- 2 (7) TMK 1-4-3-56-9 (portion) (Kailua intermediate);
- 3 (8) TMK 1-4-3-76-15 (Kainalu elementary);
- 4 (9) TMK 1-4-5-103-11 (Kaneohe elementary);
- 5 (10) TMK 1-4-5-78-14 (portion) (Kapunahala elementary);
- 6 (11) TMK 1-4-2-92-1 (portion) (Keolu elementary);
- 7 (12) TMK 1-4-6-4-2 (King intermediate);
- 8 (13) TMK 1-5-5-15-23 (Laie elementary);
- 9 (14) TMK 1-4-2-55-12 (Lanikai elementary);
- 10 (15) TMK 1-4-2-43-2 (portion) (Maunawili elementary);
- 11 (16) TMK 1-4-5-30-38 (portion) (Puohala elementary);
- 12 (17) TMKs 1-4-8-9-9, 1-4-8-9-11 (Waiahole elementary);
- 13 (18) TMK 1-9-4-59-73 (August Ahrens elementary);
- 14 (19) TMK 1-9-1-115-13 (Ewa Beach elementary);
- 15 (20) TMK 1-9-7-36-124 (Highlands intermediate);
- 16 (21) TMK 1-9-1-1-2 (portion) (Ilima intermediate);
- 17 (22) TMK 1-9-1-1-3 (Iroquois Point elementary);
- 18 (23) TMK 1-9-7-17-2 (portion) (Lehua elementary);
- 19 (24) TMK 1-8-7-4-42 (portion) (Maili elementary);
- 20 (25) TMK 1-8-4-25-10 (Makaha elementary);
- 21 (26) TMK 1-9-7-93-16 (portion) (Palisades elementary);



- 1 (27) TMK 1-9-7-24-2 (Pearl City elementary);
- 2 (28) TMK 1-9-7-36-122 (Pearl City Highlands elementary);
- 3 (29) TMK 1-9-1-1-2 (portion) (Pohakea elementary);
- 4 (30) TMK 1-8-5-1-67 (Waianae elementary);
- 5 (31) TMKs 1-9-4-10-98, 1-9-4-29-1 (Waipahu elementary);
- 6 (32) TMK 1-9-4-1-29 (portion) (Waipahu intermediate);
- 7 (33) TMK 1-1-1-10-33 (portion) (Aliamanu elementary);
- 8 (34) TMK 1-1-1-10-33 (portion) (Aliamanu intermediate);
- 9 (35) TMKs 1-9-8-29-2, 1-9-8-29-29 (Alvah Scott elementary);
- 10 (36) TMKs 1-6-6-13-11, 1-6-6-13-13, 1-6-6-14-15 (Haleiwa
- 11 elementary);
- 12 (37) TMK 1-7-1-2-17 (Helemano elementary);
- 13 (38) TMK 1-7-5-27-2 (portion) (Iliahi elementary);
- 14 (39) TMK 1-7-3-19-13 (Kaala elementary);
- 15 (40) TMK 1-9-5-21-2 (portion) (Kipapa elementary);
- 16 (41) TMK 1-1-1-34-42 (Moanalua elementary);
- 17 (42) TMK 1-1-1-9-5 (portion) (Moanalua intermediate);
- 18 (43) TMK 1-1-1-2-6 (Nimitz elementary);
- 19 (44) TMK 1-1-1-10-27 (Pearl Harbor elementary);
- 20 (45) TMKs 1-7-1-2-8, 1-7-5-5-7, 1-7-5-5-3 (Wahiawa
- 21 elementary);



- 1 (46) TMK 1-6-7-1-10 (Waialua elementary);
- 2 (47) TMK 1-9-8-8-7 (portion) (Waimalu elementary);
- 3 (48) TMK 1-3-6-11-9 (portion) (Aina Haina elementary);
- 4 (49) TMKs 1-3-4-4-6, 1-3-4-4-7 (Anuenue elementary);
- 5 (50) TMKs 2-1-005-001 (portion), 2-1-009-002, 2-1-009-003
- 6 (Central intermediate);
- 7 (51) TMKs 1-1-3-24-5 (portion) (Dole intermediate);
- 8 (52) TMKs 1-1-3-1-23, 1-1-3-1-17 (portion) (Fern
- 9 elementary);
- 10 (53) TMK 3-9-038-001 (portion) (Hahaione elementary);
- 11 (54) TMKs 2-8-029-010, 2-8-029-011 (Hokulani elementary);
- 12 (55) TMK 2-4-012-002 (Kaahumanu elementary);
- 13 (56) TMKs 1-3-024-001, 1-3-024-002 (Kaewai elementary);
- 14 (57) TMK 1-3-5-11-27 (Kahala elementary);
- 15 (58) TMK 3-2-059-002 (Kaimuki intermediate);
- 16 (59) TMKs 1-5-024-040, 1-5-025-002 (portion) (Kalakaua
- 17 intermediate);
- 18 (60) TMK 1-1-4-7-2 (portion) (Kalihi elementary);
- 19 (61) TMK 1-5-025-002 (portion) (Kalihi-Kai elementary);
- 20 (62) TMKs 1-3-035-001 (portion), 1-3-036-079 (Kalihi-Uka
- 21 elementary);



- 1 (63) TMK 3-9-005-061 (Kamiloiki elementary);
- 2 (64) TMK 1-1-6-26-22 (Kapalama elementary);
- 3 (65) TMK 1-7-023-042 (Kauluwela elementary);
- 4 (66) TMK 1-2-2-9-11 (Kawananakoa intermediate);
- 5 (67) TMK 3-9-022-037 (Koko Head elementary);
- 6 (68) TMKs 1-2-7-17-30, 1-2-7-27-10 (portion) (Kuhio
7 elementary);
- 8 (69) TMK 1-3-2-21-35 (Liholiho elementary);
- 9 (70) TMKs 1-1-6-8-16, 1-1-6-8-22, 1-1-6-8-24, 1-1-6-8-38,
10 1-1-6-8-58 (Likelike elementary);
- 11 (71) TMK 1-1-3-39-5 (Linapuni elementary);
- 12 (72) TMKs 1-2-3-30-55, 1-2-3-30-56 (Lunalilo elementary);
- 13 (73) TMK 2-9-036-003 (portion) (Manoa elementary);
- 14 (74) TMK 3-7-003-010 (portion) (Niu Valley intermediate);
- 15 (75) TMK 1-2-9-23-29 (Noelani elementary);
- 16 (76) TMK 1-2-2-43-11 (Nuuanu elementary);
- 17 (77) TMK 1-3-4-2-1 (Palolo elementary);
- 18 (78) TMK 1-2-2-16-20 (portion) (Pauoa elementary);
- 19 (79) TMK 1-1-2-8-1 (Puuhale elementary);
- 20 (80) TMK 1-3-2-45-3 (Waialae elementary);
- 21 (81) TMK 1-3-1-25-1 (portion) (Waikiki elementary);



1 (82) TMK 1-2-3-26-1 (Washington intermediate); and

2 (83) TMK 3-5-017-012 (portion) (Wilson elementary).

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

17 (c) The department of education shall accept the
18 properties in their existing condition. All claims and
19 liabilities against the city and county of Honolulu, if any,
20 which the department of education has, may have had, or may have
21 in the future, regarding any injury, loss, cost, damage, or



1 liability, including reasonable attorney's fees, concerning the
2 physical, environmental, soil, economic, and legal conditions of
3 the conveyed properties, are released, waived, and extinguished.

4 (d) Because the tax map numbers for parcels (2), (3), (5),
5 (6), (7), (10), (11), (15), (16), (23), (24), (26), (27), (32),
6 (38), (39), (40), (41), (42), (46), (47), (48), (50), (53),
7 (54), (56), (58), (59), (61), (62), (63), (65), (67), (73),
8 (74), and (83) under subsection (a) include an abutting city and
9 county of Honolulu public park, the department of education and
10 the city and county of Honolulu shall agree on the proposed
11 property boundary separating the school and park portions of the
12 properties. The department of education shall subdivide the
13 foregoing parcels in accordance with the agreed upon property
14 boundaries.

15 (e) Work to initiate the transfer of parcels identified in
16 this Act shall start no later than December 31, 2018.

17 **PART III**

18 SECTION 3. Chapter 302A, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:



1 "§302A- Property acquisition, use, and disposition. (a)

2 The department may acquire or contract to acquire by grant or
3 purchase any real, personal, or mixed property or any interest
4 therein for its immediate or future use for public educational
5 purposes, including lease revenues; and own, hold, improve, and
6 rehabilitate any real, personal, or mixed property acquired, and
7 sell, assign, exchange, transfer, convey, lease, or otherwise
8 dispose of, or encumber the same; provided that the department
9 shall incur all fees and costs associated with, and for, the
10 subdividing of the land.

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

17 (c) The department may lease or rent all or a portion of
18 any real property acquired for public educational purposes and
19 establish and revise the rents or charges therefor. The
20 department shall not sell any property, real or personal, or any
21 interest therein, except to a government entity.



1 (d) The department may insure or provide for the insurance
2 of its property or operations against risks as it deems
3 advisable.

4 (e) For purposes of this section:

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

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

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

18 SECTION 4. Section 171-2, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"§171-2 Definition of public lands.** "Public lands" means
21 all lands or interest therein in the State classed as government



1 or crown lands previous to August 15, 1895, or acquired or
2 reserved by the government upon or subsequent to that date by
3 purchase, exchange, escheat, or the exercise of the right of
4 eminent domain, or in any other manner; including lands accreted
5 after May 20, 2003, and not otherwise awarded, submerged lands,
6 and lands beneath tidal waters that are suitable for
7 reclamation, together with reclaimed lands that have been given
8 the status of public lands under this chapter, except:

- 9 (1) Lands designated in section 203 of the Hawaiian Homes
10 Commission Act, 1920, as amended;
- 11 (2) Lands set aside pursuant to law for the use of the
12 United States;
- 13 (3) Lands being used for roads and streets;
- 14 (4) Lands to which the United States relinquished the
15 absolute fee and ownership under section 91 of the
16 Hawaiian Organic Act prior to the admission of Hawaii
17 as a state of the United States unless subsequently
18 placed under the control of the board of land and
19 natural resources and given the status of public lands
20 in accordance with the state constitution, the



- 1 Hawaiian Homes Commission Act, 1920, as amended, or
2 other laws;
- 3 (5) Lands to which the University of Hawaii holds title;
- 4 (6) Lands to which the Hawaii housing finance and
5 development corporation in its corporate capacity
6 holds title;
- 7 (7) Lands to which the Hawaii community development
8 authority in its corporate capacity holds title;
- 9 (8) Lands to which the department of agriculture holds
10 title by way of foreclosure, voluntary surrender, or
11 otherwise, to recover moneys loaned or to recover
12 debts otherwise owed the department under chapter 167;
- 13 (9) Lands that are set aside by the governor to the Aloha
14 Tower development corporation; lands leased to the
15 Aloha Tower development corporation by any department
16 or agency of the State; or lands to which the Aloha
17 Tower development corporation holds title in its
18 corporate capacity;
- 19 (10) Lands that are set aside by the governor to the
20 agribusiness development corporation; lands leased to
21 the agribusiness development corporation by any



1 department or agency of the State; or lands to which
 2 the agribusiness development corporation in its
 3 corporate capacity holds title; [~~and~~]
 4 (11) Lands to which the Hawaii technology development
 5 corporation in its corporate capacity holds title; and
 6 (12) Lands to which the department of education holds
 7 title;

8 provided that, except as otherwise limited under federal law and
 9 except for state land used as an airport as defined in section
 10 262-1, public lands shall include the air rights over any
 11 portion of state land upon which a county mass transit project
 12 is developed after July 11, 2005."

13 SECTION 5. Section 171-64.7, Hawaii Revised Statutes, is
 14 amended by amending subsection (a) to read as follows:

15 "(a) This section applies to all lands or interest therein
 16 owned or under the control of state departments and agencies
 17 classed as government or crown lands previous to August 15,
 18 1895, or acquired or reserved by the government upon or
 19 subsequent to that date by purchase, exchange, escheat, or the
 20 exercise of the right of eminent domain, or any other manner,
 21 including accreted lands not otherwise awarded, submerged lands,



1 and lands beneath tidal waters that are suitable for
2 reclamation, together with reclaimed lands that have been given
3 the status of public lands under this chapter, including:

4 (1) Land set aside pursuant to law for the use of the
5 United States;

6 (2) Land to which the United States relinquished the
7 absolute fee and ownership under section 91 of the
8 Organic Act prior to the admission of Hawaii as a
9 state of the United States;

10 (3) Land to which the University of Hawaii holds title;

11 (4) Land to which the Hawaii housing finance and
12 development corporation in its corporate capacity
13 holds title;

14 (5) Land to which the department of agriculture holds
15 title by way of foreclosure, voluntary surrender, or
16 otherwise, to recover moneys loaned or to recover
17 debts otherwise owed the department under chapter 167;

18 (6) Land that is set aside by the governor to the Aloha
19 Tower development corporation; or land to which the
20 Aloha Tower development corporation holds title in its
21 corporate capacity;



1 (7) Land that is set aside by the governor to the
2 agribusiness development corporation; or land to which
3 the agribusiness development corporation in its
4 corporate capacity holds title; [~~and~~]

5 (8) Land to which the Hawaii technology development
6 corporation in its corporate capacity holds title[~~;~~];
7 and

8 (9) Land to which the department of education holds
9 title."

10 PART IV

11 SECTION 6. Lands conveyed under this Act shall contain a
12 provision that shall allow the underlying fee simple interest in
13 the property to revert back to the city and county of Honolulu
14 if the land is not used for "public educational purposes". For
15 the purpose of this Act, "public educational purposes" shall
16 include any use of the property, including revenue generation,
17 that would benefit the department of education's mission to
18 provide public education to students in Hawaii.

19 SECTION 7. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$100,000 or so much
21 thereof as may be necessary for fiscal year 2018-2019 as a



1 grant-in-aid to the city and county of Honolulu to prepare,
2 execute, and record the quitclaim deeds required by this Act.

3 The sum appropriated shall be expended by the city and
4 county of Honolulu for the purposes of this Act.

5 SECTION 8. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 9. This Act shall take effect upon its approval;
8 provided that section 7 shall take effect on July 1, 2018.



Report Title:

Public Schools; Property; Title; Transfer; Appropriation

Description:

Requires the City and County of Honolulu to transfer to the Department of Education all property upon which a public elementary or intermediate school is situated. Gives the Department of Education power to acquire and hold title to real, personal, or mixed property for use for public educational purposes. Requires legislative approval prior to the sale or gift of lands to which the Department of Education holds title. Appropriates funds. (CD1)

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

