
A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

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PART I

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SECTION 1. Act 155, Session Laws of Hawaii 2013 (Act 155),

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was approved by the governor on June 21, 2013. The purpose of

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Act 155 was to optimize the use of public school lands to

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generate opportunities to improve public school facilities and

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infrastructure to meet the challenges of the twenty-first

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century and to improve the overall quality of education in

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Hawaii. In particular, Act 155 established a pilot program to

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generate revenue from uses of public school lands for public

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purposes, such as workforce housing, to build and retrofit

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twenty-first century schools and create more school-centered

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communities. The pilot program laid important groundwork for a

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statewide approach and plan to optimize the use of public school

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lands and modernize public school facilities.

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Pursuant to subsequent discussions with government agencies

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and private developers, the legislature finds that the existing

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fifty-five-year lease term allowed in Act 155 would be



1 problematic in financing redevelopment projects. Also, the
 2 department of education has been working closely with the Hawaii
 3 housing finance and development corporation for assistance in
 4 the implementation of redevelopment projects on department of
 5 education-controlled lands. The Hawaii housing finance and
 6 development corporation is pursuing ninety-nine-year leasehold
 7 condominiums for some of their housing projects on state-owned
 8 lands. Extending the lease terms for redevelopment under Act
 9 155 would allow prospective developers flexibility in securing
 10 financing, as well as ensure a better long-term return to the
 11 State for the use of its lands.

12 The purpose of this part is to allow the department of
 13 education to lease public school lands for a term of not more
 14 than years per lease to provide prospective developers
 15 flexibility in securing financing.

16 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
 17 amended by adding a new section to subpart C of part IV to be
 18 appropriately designated and to read as follows:

19 "§302A- Public libraries; lands. Notwithstanding any
 20 law to the contrary, as of July 1, 2019, title to those portions
 21 of department lands on which public libraries are located shall



1 be held by the public library system identified in section
2 302A-1120."

3 SECTION 3. Section 302A-1151.1, Hawaii Revised Statutes,
4 is amended by amending subsection (b) to read as follows:

5 "(b) Notwithstanding sections 171-13 and 302A-1151, or any
6 other law to the contrary, the department may lease public
7 school land on terms it deems appropriate, including a leaseback
8 of all or a portion of the improvements constructed; provided
9 that:

10 (1) The board may identify and select up to five public
11 school land sites as candidates for participation in
12 the pilot program; provided that:

13 (A) During the identification and selection process,
14 the board shall be subject to chapter 92, shall
15 hold at least one public meeting in each affected
16 community, and shall foster school and community
17 participation; and

18 (B) If the site is on land owned by the county, the
19 department shall consult with the county;

20 (2) The department may lease public school land for no
21 more than three public school land sites identified



1 and selected by the board pursuant to paragraph (1)
2 under leases for a term of not more than [~~fifty-five~~
3 ~~years per lease, unless extended pursuant to section~~
4 ~~171-36,]~~ years per lease, to lessees who shall
5 be required to modify, construct, or utilize
6 facilities to benefit public educational purposes, in
7 accordance with specific request for proposal or
8 request for information guidelines;

9 (3) Each lease shall stipulate that the lessee may retain
10 any revenue generated from the facilities; provided
11 that:

12 (A) The lessee shall be obligated to maintain and
13 operate the facilities to benefit public
14 educational purposes for the length of the lease;

15 (B) The lessee shall be obligated to pay to the
16 county all applicable property tax on the value
17 of any improvements;

18 (C) A leasehold premium may be charged to the lessee
19 for the right to use the public school land based
20 on a competitive process that complies with
21 applicable sections of chapter 103D;



1 (D) Upon the expiration of the lease, the facilities
2 shall revert to the department; and

3 (E) All revenues and proceeds derived by the State
4 under this section shall be deposited in the
5 school facilities subaccount pursuant to section
6 302A-1151.2; and

7 (4) Notwithstanding any law to the contrary, the
8 department may enter into leaseback agreements that
9 allow the department to lease or sublease the property
10 to a third party. The department may lease back the
11 property from the third-party lessee or sublessee for
12 a contractual period of time, after which the
13 department shall own any improvements."

14 PART II

15 SECTION 4. The legislature finds that Act 206, Session
16 Laws of Hawaii 2017 (Act 206), became law on July 12, 2017. The
17 purpose of Act 206, in part, was to transfer public lands under
18 existing department of education facilities from the city and
19 county of Honolulu to the State, with the department of land and
20 natural resources designated as the agency to accept the
21 properties.



1 The legislature further finds that, rather than have the
2 lands transferred from the city and county of Honolulu to the
3 department of land and natural resources and then to the
4 department of education, Act 206 should be amended to allow the
5 city and county of Honolulu to transfer the lands directly to
6 the department of education in a manner similar to that in
7 Act 210, Session Laws of Hawaii 2018.

8 The purpose of this part is to amend Act 206, Session Laws
9 of Hawaii 2017, to allow the city and county of Honolulu to
10 transfer lands under existing department of education facilities
11 directly to the department of education, rather than to the
12 department of land and natural resources.

13 SECTION 5. Act 206, Session Laws of Hawaii 2017, section
14 2, is amended by amending subsections (a), (b), and (c) to read
15 as follows:

16 "(a) Notwithstanding any other law to the contrary, the
17 fee simple interest to the following parcels of land with the
18 existing improvements thereon (hereinafter "the properties")
19 (but not including submerged land, accreted land, or any land
20 makai of the shoreline), shall be conveyed by the city and



1 county of Honolulu to the department of [~~land and natural~~
2 ~~resources~~] education as grantee, as is, where is:

- 3 (1) TMK 1-4-5-34-14 (Castle High);
- 4 (2) TMKs 1-5-6-6-9, 1-5-6-6-10, and 1-5-6-6-25 (Kahuku
5 High and Elementary);
- 6 (3) TMK 1-4-4-34-24 (Kalaheo High);
- 7 (4) TMK 1-9-1-1-2 (portion) (Campbell High);
- 8 (5) TMK 1-8-5-15-1 (Waianae High);
- 9 (6) TMK 1-9-4-8-20 (Waipahu High);
- 10 (7) TMK 1-9-8-31-17 (Aiea High);
- 11 (8) TMK 1-7-4-18-1 (Leilehua High);
- 12 (9) TMK 1-9-9-2-23 (Radford High);
- 13 (10) TMK 1-6-7-2-10 (Waiialua High and Intermediate);
- 14 (11) TMKs 1-6-003-048, 1-6-021-005 (Farrington High);
- 15 (12) TMK 2-7-024-001 (Kaimuki High);
- 16 (13) TMK 3-9-005-027 (Kaiser High); and
- 17 (14) TMK 3-5-020-004 (Kalani High).

18 (b) The city and county of Honolulu shall prepare,
19 execute, and record, in the land court or bureau of conveyances,
20 as appropriate, a quitclaim deed to convey each above-listed
21 parcel with all existing improvements, subject to the property



1 boundaries determined pursuant to subsection (d), to the
2 department of [~~land and natural resources,~~] education, as
3 grantee. As these are conveyances in which the city and county
4 of Honolulu and the State and its agencies are the only parties,
5 the tax imposed by section 247-1, Hawaii Revised Statutes, shall
6 not apply to them. Effective on the date of transfer pursuant
7 to subsection (e), every reference to the present titleholder or
8 the head of the department or agency in each instrument, if the
9 titleholder is a department or an agency, shall be construed as
10 a reference to the department of [~~land and natural resources.~~]
11 education.

12 (c) The department of [~~land and natural resources]~~
13 education shall accept the properties in their existing
14 condition. All claims and liabilities against the city and
15 county of Honolulu, if any, which the department of [~~land and~~
16 ~~natural resources]~~ education has, may have had, or may have in
17 the future, regarding any injury, loss, cost, damage, or
18 liability, including reasonable attorney's fees, concerning the
19 physical, environmental, soil, economic, and legal conditions of
20 the conveyed properties, are released, waived, and
21 extinguished."



1 PART III

2 SECTION 6. Section 171-2, Hawaii Revised Statutes, is
3 amended to read as follows:

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

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



- 1 as a state of the United States unless subsequently
2 placed under the control of the board of land and
3 natural resources and given the status of public lands
4 in accordance with the state constitution, the
5 Hawaiian Homes Commission Act, 1920, as amended, or
6 other laws;
- 7 (5) Lands to which the University of Hawaii holds title;
- 8 (6) Lands to which the Hawaii housing finance and
9 development corporation in its corporate capacity
10 holds title;
- 11 (7) Lands to which the Hawaii community development
12 authority in its corporate capacity holds title;
- 13 (8) Lands set aside by the governor to the Hawaii public
14 housing authority or lands to which the Hawaii public
15 housing authority in its corporate capacity holds
16 title;
- 17 [~~8~~] (9) Lands to which the department of agriculture
18 holds title by way of foreclosure, voluntary
19 surrender, or otherwise, to recover moneys loaned or
20 to recover debts otherwise owed the department under
21 chapter 167;



1 [~~(9)~~] (10) Lands that are set aside by the governor to the
2 Aloha Tower development corporation; lands leased to
3 the Aloha Tower development corporation by any
4 department or agency of the State; or lands to which
5 the Aloha Tower development corporation holds title in
6 its corporate capacity;

7 [~~(10)~~] (11) Lands that are set aside by the governor to the
8 agribusiness development corporation; lands leased to
9 the agribusiness development corporation by any
10 department or agency of the State; or lands to which
11 the agribusiness development corporation in its
12 corporate capacity holds title;

13 [~~(11)~~] (12) Lands to which the Hawaii technology development
14 corporation in its corporate capacity holds title; and

15 [~~(12)~~] (13) Lands to which the department of education holds
16 title;

17 provided that, except as otherwise limited under federal law and
18 except for state land used as an airport as defined in section
19 262-1, public lands shall include the air rights over any
20 portion of state land upon which a county mass transit project
21 is developed after July 11, 2005."



1 SECTION 7. Section 171-64.7, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) This section applies to all lands or interest therein
4 owned or under the control of state departments and agencies
5 classed as government or crown lands previous to August 15,
6 1895, or acquired or reserved by the government upon or
7 subsequent to that date by purchase, exchange, escheat, or the
8 exercise of the right of eminent domain, or any other manner,
9 including accreted lands 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, including:

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

15 (2) Land to which the United States relinquished the
16 absolute fee and ownership under section 91 of the
17 Organic Act prior to the admission of Hawaii as a
18 state of the United States;

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



- 1 (4) Land to which the Hawaii housing finance and
2 development corporation in its corporate capacity
3 holds title;
- 4 (5) Land to which the department of agriculture holds
5 title by way of foreclosure, voluntary surrender, or
6 otherwise, to recover moneys loaned or to recover
7 debts otherwise owed the department under chapter 167;
- 8 (6) Land that is set aside by the governor to the Aloha
9 Tower development corporation; or land to which the
10 Aloha Tower development corporation holds title in its
11 corporate capacity;
- 12 (7) Land that is set aside by the governor to the
13 agribusiness development corporation; or land to which
14 the agribusiness development corporation in its
15 corporate capacity holds title;
- 16 (8) Land to which the Hawaii technology development
17 corporation in its corporate capacity holds title;
18 [~~and~~]
- 19 (9) Land to which the department of education holds
20 title[-]; and



1 (10) Land to which the Hawaii public housing authority in
2 its corporate capacity holds title."

3 PART IV

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

6 SECTION 9. This Act shall take effect on July 1, 2050.



Report Title:

DOE; Public School Lands; Lease; Transfer; HPHA; Public Lands

Description:

Part I: Allows the Department of Education to lease public school lands for a term of not more than an unspecified number of years per lease. Specifies that title to those portions of Department of Education lands on which public libraries are located are held by the public library system. Part II: Amends Act 206, Session Laws of Hawaii 2017, to allow the City and County of Honolulu to transfer lands under existing Department of Education facilities directly to the Department of Education, rather than through the Department of Land and Natural Resources. Part III: Excludes lands set aside by the Governor to the Hawaii Public Housing Authority and lands to which Hawaii Public Housing Authority holds title from the definition of public lands in section 171-2, Hawaii Revised Statutes. Requires prior legislative approval for the sale of lands to which the Hawaii Public Housing Authority holds title. (SB1303 HD2)

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