
A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1 SECTION 1. The legislature finds that a strong public
2 library system contributes to the economic, educational, and
3 cultural vitality of the State.

4 The legislature further finds that under existing law, the
5 state librarian may issue licenses, revocable permits,
6 concessions, and rights of entry to only two entities: the
7 Hawaii State Library Foundation and Friends of the Library of
8 Hawaii. The legislature finds that there is concern that
9 allowing exclusive use of state facilities creates a special
10 privilege for specific private entities even though other
11 private entities may be able to provide an equal or greater
12 benefit to the Hawaii state public library system if given an
13 equal opportunity to participate. The original intent of the
14 existing law was not to create exclusive-use privileges but
15 rather to encourage greater private-public partnerships to
16 benefit the Hawaii state public library system at the community
17 level.

18 The purpose of this Act is to, among other things:



- 1 (1) Authorize the board of education to enter into certain
2 arrangements or contracts, approved by the governor,
3 with any 501(c)(3) tax-exempt nonprofit corporation
4 whose primary purpose is the support of a public
5 library or libraries, or an affiliate of the nonprofit
6 corporation;
- 7 (2) Authorize the deposit of private donations and moneys
8 collected pursuant to section 312-3.8, Hawaii Revised
9 Statutes, into the libraries special fund;
- 10 (3) Clarify that privately donated moneys which are
11 specified by a donor to be for the benefit of a
12 specific public library or libraries shall be
13 disbursed to the specified public library or libraries
14 for the sole use of that library or those libraries;
- 15 (4) Clarify that the state librarian may establish
16 subaccounts within the libraries special fund to
17 account for donations to specific library branches and
18 may restrict the use of such donations for the benefit
19 of the specified library branch;
- 20 (5) Amend section 312-3.7, Hawaii Revised Statutes, to
21 require that the results of the annual audit of the
22 Hawaii state library foundation trust fund be



- 1 submitted to the legislature and the board of
2 education;
- 3 (6) Authorize the head librarian of each library branch to
4 receive requests for and to issue licenses, revocable
5 permits, concessions, or rights of entry for the use
6 of library facilities and grounds, with the approval
7 of the state librarian, in consultation with the board
8 of education;
- 9 (7) Delete all references to the Hawaii State Library
10 Foundation and Friends of the Library of Hawaii in
11 chapter 312, Hawaii Revised Statutes, in order to
12 remove any appearance of a special privilege to
13 specific entities;
- 14 (8) Require the board of education to determine the amount
15 of net income or proceeds received from the operation
16 of any concession, vending machine, or other for-
17 profit business enterprise within or on state library
18 facilities to be deposited into the libraries special
19 fund;
- 20 (9) Clarify that nothing in section 312-3.8, Hawaii
21 Revised Statutes, shall be construed to require a
22 library to issue a license, permit, concession, or



1 right of entry in order for any entity to establish a
2 tax-exempt nonprofit corporation recognized under
3 section 501(c) (3) of the Internal Revenue Code whose
4 primary purpose is to support and benefit that library
5 or for any entity or individual to donate funds
6 exclusively to that library;

7 (10) Clarify that book sales held within, or on the grounds
8 of, any state library facility shall not constitute a
9 concession; and

10 (11) Require the board of education to adopt rules pursuant
11 to chapter 91, Hawaii Revised Statutes, to carry out
12 the purposes of section 312-3.8, Hawaii Revised
13 Statutes.

14 It is the intent of the legislature that this Act will
15 provide the opportunity for every individual and every entity to
16 support their public library at the community level. Nothing in
17 this Act should be construed to limit the ability of individuals
18 and entities to support their local libraries.

19 SECTION 2. Section 312-2, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "§312-2 Powers of board; special fund. The board of
22 education may:



- 1 (1) Except as provided in section 312-3.9, make
- 2 arrangements or contracts as are approved by the
- 3 governor, with any county, city, association, society,
- 4 person, or persons, for the purpose of benefiting the
- 5 libraries and increasing their facilities and use;
- 6 (2) Subject to section 26-12, enter into such arrangement
- 7 or contract as is approved by the governor, with [~~the~~
- 8 ~~Friends of the Library of Hawaii,~~] any tax-exempt
- 9 nonprofit corporation recognized under section
- 10 501(c) (3) of the Internal Revenue Code whose primary
- 11 purpose is the support of a library or libraries
- 12 within the Hawaii state public library system or an
- 13 affiliate of the nonprofit corporation, for the
- 14 purpose of obtaining the use of the books and property
- 15 and income of [~~the Friends of the Library of Hawaii,~~
- 16 that tax-exempt nonprofit corporation or its
- 17 affiliate;
- 18 (3) Cooperate by exchange and otherwise with libraries now
- 19 existing or hereafter to be formed;
- 20 (4) Receive, use, manage, or invest moneys or other
- 21 property, real, personal, or mixed which may be given,
- 22 bequeathed, devised, or in any manner received from



1 sources other than the legislature or any federal
2 appropriation for any or all purposes of the
3 libraries;

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

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

11 (7) Expend the moneys in the special fund in accordance
12 with the terms and conditions of each donation for the
13 purposes of the libraries.

14 The board shall be the trustee of the special fund and all
15 moneys therein shall be deemed to have been appropriated to the
16 use and for the purposes of the board in providing library
17 services. Nothing in this section shall be construed to limit
18 the powers and duties of the board hereinbefore expressed, or to
19 empower the board to obligate the State financially in any sum
20 which shall not have been appropriated by the legislature for
21 the use of the board."



1 SECTION 3. Section 312-3.6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§312-3.6 Libraries special fund. (a) There is
4 established in the state treasury a libraries special fund into
5 which shall be deposited all private donations, all moneys
6 collected pursuant to [~~section~~] sections 312-3.5[7] and 312-3.8,
7 and all moneys designated to be paid to this fund pursuant to
8 section 235-102.5(c).

9 (b) The fund shall be administered by the state librarian
10 who shall, unless otherwise directed by the library advisory
11 committee, disburse to each public library, the amount
12 commensurate with the moneys received from the library under
13 [~~section~~] sections 312-3.5 and 312-3.8 over the previous fiscal
14 period. Allocations shall be made in quarterly installments
15 within thirty days of the end of each calendar quarter.

16 (c) [~~Moneys~~] Unless otherwise provided by law, moneys
17 allocated from the libraries special fund to the public
18 libraries shall be used to purchase books or other library
19 materials. Each public library may post on a bulletin board or
20 other appropriate place a list of the purchases made from the
21 special fund in the preceding quarter.



1 (d) The state librarian shall submit an annual report on
2 the status of the libraries special fund, to include information
3 regarding:

4 (1) Deposits into the fund and the source of these
5 revenues;

6 (2) Allocations to each public library, including
7 allocations established for both the fiscal year
8 covered by the annual report and the subsequent fiscal
9 year;

10 (3) Descriptions and amounts of expenditures made from the
11 fund;

12 (4) Balances remaining on June 30 of each year;

13 (5) Financial information regarding receipt sources by
14 individual libraries; and

15 (6) Actual expenditure of receipts by individual
16 libraries;

17 provided that this report shall be submitted to the legislature
18 and to the governor, or the director of finance if so delegated
19 by the governor, no later than twenty days prior to the
20 convening of each regular session of the legislature.

21 [†] (e) [†] The state librarian may receive privately
22 donated moneys and use such moneys in any of the library



1 system's accounts or funds to support the operations of the
2 library system, including the payment of staff salaries and
3 expenses related to operations of library facilities; provided
4 that the donor is advised that the donated moneys may be used
5 for these purposes[-]; provided further that privately donated
6 moneys which are specified by the donor to be for the benefit of
7 a specific public library or libraries shall be disbursed to the
8 specified public library or libraries for the sole use of that
9 library or those libraries.

10 (f) Nothing in this section shall preclude the state
11 librarian from creating subaccounts within the libraries special
12 fund to itemize private donations for the benefit of individual
13 library branches."

14 SECTION 4. Section 312-3.7, Hawaii Revised Statutes, is
15 amended by amending subsection (d) to read as follows:

16 "(d) The Hawaii state library foundation shall require an
17 annual audit of the trust fund, the results of which shall be
18 submitted to the [department] board of education and the
19 legislature not more than thirty days after receipt by the
20 foundation. The foundation shall retain for a period of three
21 years, any documents, papers, books, records, and other evidence
22 that is pertinent to the trust fund, and permit inspection or



1 access thereto by the [~~department~~] board of education, the state
2 librarian, the department of accounting and general services,
3 state legislators, and the state auditor, or their duly
4 authorized representatives."

5 SECTION 5. Section 312-3.8, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "§312-3.8 [~~Hawaii state library foundation and friends of~~
8 ~~the library of Hawaii concessions; use]~~ Use of public library
9 facilities. (a) Notwithstanding any law to the contrary, the
10 [~~Hawaii state public library system, through the state~~
11 ~~librarian, shall be authorized to issue]~~ head librarian of each
12 library branch may request the issuance of licenses, revocable
13 permits, concessions, or rights of entry [~~to the Hawaii state~~
14 ~~library foundation and the friends of the library of Hawaii and]~~
15 for the use of public library system facilities and grounds,
16 with the approval of the state librarian, in consultation with
17 the board of education, for [such] any periods of use as deemed
18 appropriate by the state librarian. The state librarian shall
19 administer any licenses, revocable permits, concessions, or
20 rights of entry issued pursuant to this section. All such
21 dispositions, including those in excess of fourteen days, need
22 not be approved by the board of land and natural resources;



1 provided that approval by the board of land and natural
2 resources shall be required when such dispositions are for
3 periods in excess of one year.

4 (b) Notwithstanding any law to the contrary, ~~[all]~~ the
5 board of education shall determine the amount of net income or
6 proceeds received ~~[by the Hawaii state library foundation and~~
7 ~~the friends of the library of Hawaii]~~ from the operation of any
8 concession, vending machine, or other for-profit business
9 enterprise within, or on the grounds of, any state library
10 facility that shall be deposited into the ~~[Hawaii state library~~
11 ~~foundation trust fund or the friends of the library of Hawaii~~
12 ~~trust fund, as appropriate.]~~ libraries special fund established
13 pursuant to section 312-3.6. All funds deposited into the
14 ~~[trust funds,]~~ special fund, including income and capital gains
15 earned therefrom, shall be used exclusively for state library
16 programs.

17 (c) Nothing in this section shall be construed to require
18 a library within the Hawaii state public library system to issue
19 a license, revocable permit, concession, or right of entry
20 pursuant to this section in order for an entity to establish a
21 tax-exempt nonprofit corporation recognized under section
22 501(c)(3) of the Internal Revenue Code whose primary purpose is



1 to support and benefit that specific library or to donate funds
2 exclusively to that specific library.

3 (d) Any book sale held within, or on the grounds of, any
4 state library facility shall not constitute a concession for
5 purposes of this section.

6 (e) The board of education shall adopt rules pursuant to
7 chapter 91 to carry out the purposes of this section."

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

10 SECTION 7. This Act shall take effect upon its approval.



Report Title:

Education; Board of Education; State Libraries

Description:

Clarifies that the board of education may enter into an agreement with any tax-exempt nonprofit corporation recognized under section 501(c)(3) of the Internal Revenue Code or an affiliate to obtain the use of the books and property and income of that nonprofit corporation or its affiliate. Authorizes the deposit of private donations and moneys collected pursuant to section 312-3.8, HRS, into the libraries special fund. Clarifies that privately donated moneys for the benefit of a specific public library or libraries shall be disbursed to the specified libraries for the sole use of those libraries. Clarifies that the state librarian may establish subaccounts within the libraries special fund. Requires the results of the annual audit of the Hawaii state library foundation trust fund be submitted to the board of education and legislature. Amends section 312-3.8, HRS, to: (1) authorize the head librarian of each library branch to request the issuance of licenses, revocable permits, concessions, or rights of entry for the use of public library facilities and grounds, with the approval of the state librarian, and in consultation with the board of education, (2) remove references to the Hawaii state library foundation and friends of the library of Hawaii; (3) require the board of education to determine the amount of net income or proceeds received for the operation of any concession, vending machine, or other for-profit business enterprise within or on state library facilities that shall be deposited into the libraries special fund; (4) clarify that nothing in section 312-3.8, HRS, shall be construed to require a library to issue a license, permit, concession, or right of entry in order for any entity to establish a tax-exempt nonprofit corporation recognized under section 501(c)(3) of the Internal Revenue Code whose primary purpose is to support and benefit that library or to donate funds exclusively to that library; (5) clarify that any book sale held within, or on the grounds of, any state library facility is not a concession; and (6) require the board of education to adopt administrative rules. (SD1)

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