

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

ON THE FOLLOWING MEASURE:

S.B. NO. 976, RELATING TO PUBLIC LIBRARIES.

BEFORE THE:

SENATE COMMITTEES ON EDUCATION AND ON WATER AND LAND

DATE: Wednesday, February 6, 2019 **TIME:** 2:45 p.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Clare E. Connors, Attorney General, or
Melissa J. Kolonie, Deputy Attorney General

Chairs Kidani and Kahele and Members of the Committees:

The Department of the Attorney General provides the following comments.

The purposes of this bill are to establish a pilot program to generate revenue through the lease of public library lands to meet the mission of the public libraries, establish the library facilities fund, and require the State Librarian and Board of Education to report to the Legislature regarding the foregoing.

The Department has concerns because there is some question about who holds the title to the various land parcels on which the public libraries are located. If the public library lands are public trust lands set aside for public purposes by executive order, they cannot be leased. Moreover, if those lands are no longer needed for library purposes, the executive orders should be withdrawn and the lands returned to the Department of Land and Natural Resources. We recommend clarifying that libraries on public trust lands set aside for public purposes by executive order are excluded from consideration as candidates for participation in the pilot program.

Additionally, if the library buildings were built with funds from bonds issued for governmental purposes, and if the library buildings are used by for-profit enterprises, the bonds may be at risk of losing their tax exempt status. We recommend clarifying that library buildings with outstanding general obligation bond debt are excluded from consideration as candidates for participation in the pilot program.

Subsection (b)(2) on page 2, lines 13-16, of the new section being added to Chapter 312, Hawaii Revised Statutes (HRS), requires leases to meet the mission of the public libraries, while subsection (c), on page 4, line 3, allows for redevelopment for non-library purposes. These two provisions appear to be incompatible. We recommend replacing the “shall” on page 2, line 14, to a “may” to allow for subsection (c).

Finally, it appears the bill intends that a lease not be subject to approval by the Board of Land and Natural Resources (BLNR). If so, we respectfully suggest that page 1, lines 10-12, be revised to:

(b) Notwithstanding section 171-13, or any other law to the contrary, the board of education may lease public library land without review by or approval of the board of land and natural resources on terms it deems appropriate

The reason for this change is that section 171-13, HRS, authorizes the BLNR to lease land but does not authorize leases by other agencies. The requirement that the BLNR review leases of other agencies is in section 171-11, HRS.

Thank you for the opportunity to provide testimony.

DAVID Y. IGE
GOVERNOR



RODERICK K. BECKER
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE**

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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)



WRITTEN ONLY
TESTIMONY BY RODERICK K. BECKER
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEES ON EDUCATION AND WATER AND LAND
ON
SENATE BILL NO. 976

**February 6, 2019
2:45 p.m.
Room 229**

RELATING TO PUBLIC LIBRARIES

Senate Bill (S.B.) No. 976 establishes a pilot program to generate revenues through the lease of public library lands to meet the mission of the public libraries. The bill also creates the Library Facilities Fund to collect revenues generated from the pilot program, including proceeds, leases, permits, interest income, and other revenues.

As a matter of general policy, the department does not support the creation of any special or revolving fund which does not meet the requirements of Sections 37-52.3 and 37-52.4, HRS, respectively. Special and revolving funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. In regards to S.B. No. 976, it is difficult to determine whether the proposed special fund would be self-sustaining.

Thank you for your consideration of our comments.

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committees on
EDUCATION
and
WATER AND LAND**

**Wednesday, February 6, 2019
2:45 PM
State Capitol, Conference Room 229**

**In consideration of
SENATE BILL 976
RELATING TO PUBLIC LIBRARIES**

Senate Bill 976 proposes to establish a pilot program to generate revenue through the lease of public library lands to meet the mission of the public libraries. The measure also proposes to establish a library facilities fund, and requires the State Librarian and Board of Education to report to the Legislature. **The Department of Land and Natural Resources (Department) appreciates the intent of this measure and provides the following comments.**

Lands being used for public libraries are typically set aside to the Hawaii State Public Libraries System (HSPLS) by Governor's executive order. Any change in or additional use of the land would likely require the executive order to be amended or cancelled and reissued, which would be subject to the approval of the Board of Land and Natural Resources and the Governor. Furthermore, Section 171-11, Hawaii Revised Statutes (HRS), provides that when public lands set aside by the governor "are not being utilized or required for the public purpose stated, the order setting aside the lands shall be withdrawn and the lands shall be returned to the department." Under Senate Bill 976, HSPLS would seem to be required to return land to the Department only when the land is not being used for any public purpose, which is inconsistent with the mandate of Section 171-11, HRS.

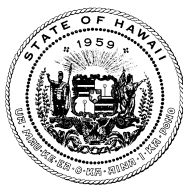
Thank you for the opportunity to comment on this measure.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS



DAVID Y. IGE
GOVERNOR

STACIE A. ALDRICH
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SENATE COMMITTEE ON EDUCATION
And
SENATE COMMITTEE ON WATER AND LAND
Wednesday, February 6, 2019
2:45 p.m.
Conference Room 229
State Capitol
By
Stacey A. Aldrich
State Librarian

S.B. 976 Relating to Public Libraries

To: Chair Michelle N. Kidani
Vice Chair Donna Mercado Kim
Members of the Senate Committee on Education

Chair Kaiali'i Kahele
Vice Chair Gilbert S.C. Keith-Agaran
Members of the Senate Committee on Water and Land

Senate Bill (S.B.) 976 establishes a pilot program to generate revenue through the leasing of public library lands to meet the mission of the public libraries. The Hawaii State Public Library System (HSPLS) **supports** the intent of S.B. 976 and provides the following comments.

In general, the HSPLS supports the intent to identify revenue generating programs to meet the mission of the public library system. The HSPLS notes, however, that it currently does not hold title to the lands on which the public libraries sit, nor that it has the expertise necessary to guide the HSPLS through a pilot program which involves the redevelopment, and leasing and management of library lands.

The HSPLS respectfully requests an appropriation to allow HSPLS to hire expertise to develop a comprehensive facilities plan. A comprehensive facilities plan will assist HSPLS in evaluating all of our current sites to better assess which sites should be considered for this pilot program and for the development of a strategic plan to meet the intent of this measure.

Thank you for the opportunity to comment on this measure.

SB-976

Submitted on: 2/5/2019 2:07:05 PM

Testimony for EDU on 2/6/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

LATE

SB-976

Submitted on: 2/2/2019 10:18:03 AM

Testimony for EDU on 2/6/2019 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kehaulani Shintani	Individual	Support	No

Comments: