

THE SENATE
TWENTY-SECOND LEGISLATURE, 2003
STATE OF HAWAII

S.B. NO. 58
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

RELATING TO SCHOOL REPAIR AND MAINTENANCE.

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

1 SECTION 1. The legislature finds that the backlog of
2 repair and maintenance projects in public schools continues to
3 be of concern and that all means of addressing the problem
4 should be explored and supported.

5 The twenty-first legislature, in Act 309, Session Laws of
6 Hawaii 2001, laid the foundation for Hawaii 3R's, a project of
7 the private, nonprofit organization, Helping Hands Hawaii.

8 The legislature finds that Hawaii 3R's has saved the State
9 money by leveraging funds with volunteerism or "sweat equity."
10 Through remarkable community support, federal funds, private
11 donations, and state grant funds, repair and maintenance
12 projects estimated to cost \$2,885,000 have been completed or are
13 in progress. Of the \$1,000,000 in state grant funds
14 appropriated for Hawaii 3R's for the biennium ending June 30,
15 2003, \$625,000 has been expended thus far by Hawaii 3R's. This
16 means that for every state dollar expended, over four and one-
17 half dollars worth of work is completed. Or, in terms of
18 savings, the State has saved over \$2,200,000 in repair and



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1 estimated one hundred fifty public schools that cannot receive
2 grants through Joint Venture Education Forum funding.

3 The legislature is encouraged by the level of support that
4 the community has given to Hawaii 3R's and, more importantly,
5 the public schools. Skilled and unskilled volunteer labor from
6 the military, civic clubs, churches, teachers, parents, and
7 students, combined with donations from community restaurants and
8 businesses, have made Hawaii 3R's successful. Also, trade
9 unions and associations have been lending invaluable support.
10 Hawaii 3R's, with the assistance of the department of accounting
11 and general services and the community, has created a truly
12 successful public-private partnership.

13 While Hawaii 3R's has been a project of Helping Hands
14 Hawaii, it has developed the expertise to carry out its
15 operations as an independent entity. Hawaii 3R's has applied to
16 the Internal Revenue Service for designation as a qualified
17 nonprofit organization under section 501(c)(3) of the Internal
18 Revenue Code. The receipt of qualified nonprofit status would
19 enable Hawaii 3R's to receive state, federal, and private funds
20 through grants and contributions. The Internal Revenue Service
21 is expected to make its determination regarding Hawaii 3R's
22 nonprofit status by spring 2003.



20 Accordingly, the purpose of this Act is to improve public
21 education facilities by:

1 (1) Establishing the Hawaii 3R's school repair and
2 maintenance fund;
3 (2) Appropriating state funds to Helping Hands Hawaii; and
4 (3) Providing a position and funds for the department of
5 accounting and general services to coordinate public
6 and private efforts to repair and maintain public
7 schools.

8 Also, upon the determination that Hawaii 3R's is a qualified
9 nonprofit organization, all moneys, appropriations, books,
10 records, and property of Helping Hands Hawaii relating to its
11 project, Hawaii 3R's, shall be transferred to Hawaii 3R's.
12 After the transfer of moneys to Hawaii 3R's, the Hawaii school
13 repair and maintenance fund shall be repealed. The legislature
14 finds that these actions further the public-private efforts to
15 repair and maintain Hawaii's public schools.

16 Finally, the legislature finds that appropriating public
17 funds to Helping Hands Hawaii and Hawaii 3R's serves the public
18 purpose of expediting the repair and maintenance of Hawaii's
19 public schools.

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

1 "§302A- Hawaii 3R's school repair and maintenance
2 fund. (a) There is established the Hawaii 3R's school repair
3 and maintenance fund (hereinafter, "fund") as a separate fund of
4 Hawaii 3R's, a Hawaii nonprofit organization. Moneys received
5 from the State, county, or federal government, private
6 contributions of cash or other property, and the income and
7 capital gains earned by the fund shall constitute its assets.
8 (b) Hawaii 3R's shall expend moneys from the fund in the
9 form of either grants to organizations or contracts with private
10 vendors for the repair and maintenance of public schools in
11 Hawaii in accordance with this section.
12 (c) The fund may receive contributions, grants,
13 endowments, or gifts in cash or otherwise from all sources,
14 including corporations or other businesses, foundations,
15 government, individuals, and other interested parties. The
16 legislature intends that public and private sectors review and
17 investigate all potential funding sources. The State may
18 appropriate moneys to the fund; provided that any appropriations
19 made by the State are not intended to supplant the funding of
20 any existing school-level minor repairs and maintenance
21 programs, including school-level minor repairs and maintenance
22 accounts established under section 302A-1504.



(e) In managing the moneys in the fund, Hawaii 3R's shall exercise ordinary business care and prudence given the facts and circumstances prevailing at the time of action or decision. In doing so, Hawaii 3R's shall consider its long- and short-term needs in carrying out its purposes, its present and anticipated financial requirements, expected total return on its investments, price trends, and general economic conditions.

1 (f) There may be an endowment component of the fund, and
2 Hawaii 3R's may accumulate net income and add the same to the
3 principal.

4 (g) The use of any state moneys may be restricted by the
5 legislation appropriating these moneys to the fund.

6 (h) Hawaii 3R's may expend principal from the fund for the
7 purposes of the fund.

8 (i) Any organization submitting a proposal to Hawaii 3R's
9 for moneys shall meet the following standards at the time of
10 application:

11 (1) Be a for-profit organization duly registered under the
12 laws of the State, or be a nonprofit organization
13 determined by the Internal Revenue Service to be
14 exempt from the federal income tax, or be an agency of
15 the State or a county;

16 (2) In the case of a nonprofit organization, have a
17 governing board whose members have no material
18 conflict of interest and serve without compensation;

19 (3) In the case of an applicant that is not a state or
20 county government agency, have bylaws or policies that
21 describe the manner in which business is conducted and

policies that relate to the management of a potential

situation involving a conflict of interest;

(4) Have experience with the project or in the program

area for which the proposal is being made; and

(5) Be licensed and accredited, as applicable, in

accordance with the requirements of federal, state,

and county governments.

(j) All proposals submitted to Hawaii 3R's for moneys

shall be approved by the department of accounting and general

services for consistency in meeting design and materials

standards for public schools.

(k) Organizations or agencies to which moneys are awarded

shall agree to comply with the following conditions before

receiving the award:

(1) Use persons qualified to engage in the activity to be

funded;

(2) Comply with the applicable federal, state, and county

laws; and

(3) Comply with any other requirements prescribed by

Hawaii 3R's to ensure adherence by the recipient of

the award with applicable federal, state, and county

laws and with the purposes of this section.

18 (o) The fund shall not be placed in the state treasury,
19 and the State shall not administer the fund, nor shall the State
20 be liable for the operation or solvency of the fund or Hawaii
21 3R's.

~~(c) The fund may receive contributions, grants, endowments, or gifts in cash or otherwise from all sources, including corporations or other businesses, foundations, government, individuals, and other interested parties. The legislature intends that the public and private sectors work together as partners in securing contributions for the fund, and that Helping Hands Hawaii, through its project, Hawaii 3R's, assist the public and private sectors in reviewing and investigating all potential funding sources. The State may appropriate moneys to the fund, provided that any appropriations made by the State are not intended to supplant the funding of any existing public school repair and maintenance programs, including school level minor repairs and maintenance accounts established under section 302A-1504, Hawaii Revised Statutes.~~

22 ~~(1) Soliciting and otherwise raising funds for the fund.~~

1 ~~(i) Any organization submitting a proposal to Helping~~
2 ~~Hands Hawaii for fund moneys shall meet all of the following~~
3 ~~standards at the time of application.~~

4 ~~(1) Be a for profit organization duly registered under the~~
5 ~~laws of the State, or be a nonprofit organization~~
6 ~~determined by the Internal Revenue Service to be~~
7 ~~exempt from the federal income tax, or be an agency of~~
8 ~~the State or a county,~~

9 ~~(2) In the case of a nonprofit organization, have a~~
10 ~~governing board whose members have no material~~
11 ~~conflict of interest and serve without compensation,~~

12 ~~(3) In the case of an applicant that is not a state or~~
13 ~~county government agency, have bylaws or policies that~~
14 ~~describe the manner in which business is conducted and~~
15 ~~policies that relate to the management of potential~~
16 ~~conflict of interest situations,~~

17 ~~(4) Have experience with the project or in the program~~
18 ~~area for which the proposal is being made, and~~

19 ~~(5) Be licensed and accredited, as applicable, in~~
20 ~~accordance with the requirements of federal, state,~~
21 ~~and county governments.~~



1 ~~(m) Any contracts awarded by Helping Hands Hawaii shall be~~
2 ~~made under as much competition as is practical to execute its~~
3 ~~purposes.~~

4 ~~(n) The fund shall be audited annually by an independent~~
5 ~~auditor. The results of each annual audit shall be submitted to~~
6 ~~the department of accounting and general services not later than~~
7 ~~thirty days from the date Helping Hands Hawaii receives the~~
8 ~~audit results. In addition, Helping Hands Hawaii shall retain~~
9 ~~for a period of three years and permit the department of~~
10 ~~accounting and general services, the department of education,~~
11 ~~state legislators, and the auditor, or their duly authorized~~
12 ~~representatives, to inspect and have access to any documents,~~
13 ~~papers, books, records, and other evidence that is pertinent to~~
14 ~~the fund.~~

15 ~~(o) The fund shall not be placed in the state treasury,~~
16 ~~and the State shall not administer the fund, nor shall the State~~
17 ~~be liable for the operation or solvency of the fund, Helping~~
18 ~~Hands Hawaii, or Hawaii 3R's.~~

19 ~~(p) For every dollar of state moneys granted by the fund~~
20 ~~to the project, there shall be a minimum of \$1 in value matched~~
21 ~~by Helping Hands Hawaii from private, federal, county, or~~
22 ~~community sources."]~~



- 8 (2) All appropriations, records, equipment, machines,
9 files, supplies, contracts, books, papers, documents,
10 and other personal property made, used, developed,
11 acquired, or held by Helping Hands Hawaii, through its
12 project, Hawaii 3R's.

13 SECTION 7. Upon request of the comptroller, Helping Hands
14 Hawaii shall submit a report to the comptroller, in the form
15 prescribed by the comptroller, accounting for the receipts and
16 disbursements of the Hawaii school repair and maintenance fund
17 and any other information that the comptroller may require.

18 SECTION 8. After the repeal of the Hawaii school repair
19 and maintenance fund, Helping Hands Hawaii shall submit the
20 results of the annual audit of the Hawaii school repair and
21 maintenance fund to the department of accounting and general
22 services not later than thirty days from the date that Helping

1 Hands Hawaii receives the audit results. Helping Hands Hawaii
2 shall permit the department of accounting and general services,
3 the department of education, state legislators, and the auditor,
4 or their duly authorized representatives, to inspect and have
5 access to any documents, papers, books, records, and other
6 evidence that is pertinent to the Hawaii school repair and
7 maintenance fund.

8 SECTION 9. If any provision of this Act, or the
9 application thereof to any person or circumstance is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act which can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 10. It is the intent of this Act not to jeopardize
15 the receipt of any federal aid nor to impair the obligation of
16 the State or any agency thereof to the holders of any bond
17 issued by the State or by any such agency, and to the extent,
18 and only to the extent, necessary to effectuate this intent, the
19 governor may modify the strict provisions of this Act, but shall
20 promptly report any such modification with reasons therefore to
21 the legislature at its next session thereafter for review by the
22 legislature.



- 1 SECTION 11. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
- 3 SECTION 12. This Act shall take effect on July 1, 2003.