
A BILL FOR AN ACT

RELATING TO THE STATE LIBRARY SYSTEM.

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

1 SECTION 1. Chapter 312, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§312- State library system commission; established.

5 (a) There is established within the department of education for
6 administrative purposes the state library system commission.
7 The commission shall consist of five members appointed by the
8 governor in accordance with section 26-34.

9 The members of the commission shall serve without
10 compensation but shall be reimbursed for expenses, including
11 travel expenses, necessary for the performance of their duties.

12 (b) The commission shall manage and administer the state
13 library system."

14 SECTION 2. Section 26-12, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§26-12 Department of education. (a) The department of
17 education shall be headed by an executive board to be known as
18 the board of education[-], except for matters relating to the



1 state library system where the state library system commission
2 shall have exclusive jurisdiction and final authority; provided
3 that community and school libraries shall remain under the
4 jurisdiction and authority of the board of education.

5 (b) Under policies established by the board, the
6 superintendent shall administer programs of education and public
7 instruction throughout the State, including education at the
8 preschool, primary, and secondary school levels, adult
9 education, school library services, health education and
10 instruction (not including dental health treatment transferred
11 to the department of health), and such other programs as may be
12 established by law. The state librarian, under policies
13 established by the [~~board of education,~~] the state library
14 system commission, shall be responsible for the administration
15 of programs relating to [~~public~~] state library system services
16 and transcribing services for the blind.

17 (c) The functions and authority heretofore exercised by
18 the department of education (except dental health treatment
19 transferred to the department of health), library of Hawaii,
20 Hawaii county library, Maui county library, and the transcribing
21 services program of the bureau of sight conservation and work
22 with the blind, as heretofore constituted are transferred to the



1 ~~[public]~~ state library system established by this chapter~~[-]~~
2 that shall be named "state library system".

3 (d) The management contract between the board of
4 supervisors of the county of Kauai and the Kauai public library
5 association shall be terminated at the earliest time after
6 November 25, 1959, permissible under the terms of the contract
7 and the provisions of this paragraph shall constitute notice of
8 termination, and the functions and authority heretofore
9 exercised by the Kauai county library as heretofore constituted
10 and the Kauai public library association over the public
11 libraries in the county of Kauai shall thereupon be transferred
12 to the public library system established by this chapter.

13 (e) The management contracts between the trustees of the
14 library of Hawaii and the Friends of the Library of Hawaii, and
15 between the library of Hawaii and the Hilo library and reading
16 room association, shall be terminated at the earliest time after
17 November 25, 1959, permissible under the terms of the contracts,
18 and the provisions of this paragraph shall constitute notice of
19 termination.

20 (f) Upon the termination of the contracts, the State or
21 the counties shall not enter into any library management
22 ~~[contracts]~~ contract with ~~[any]~~ a private association; provided



1 that in providing library services the [~~board of education~~]
2 state library system commission may enter into contracts
3 approved by the governor for the use of lands, buildings,
4 equipment, and facilities owned by any private association.

5 (g) Notwithstanding any law to the contrary, the [~~board of~~
6 ~~education~~] state library system commission may establish,
7 specify the membership number and quorum requirements for,
8 appoint members to, and disestablish a commission in each county
9 to be known as the library advisory commission, which shall in
10 each case sit in an advisory capacity to the [~~board of~~
11 ~~education~~] state library system commission on matters relating
12 to [~~public~~] state library system services in their respective
13 county."

14 SECTION 3. Section 103D-203, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) The chief procurement officer for each of the
17 following state entities shall be:

18 (1) The judiciary--the administrative director of the
19 courts;

20 (2) The senate--the president of the senate;

21 (3) The house of representatives--the speaker of the house
22 of representatives;



1 (4) The office of Hawaiian affairs--the chairperson of the
2 board;

3 (5) The University of Hawaii--the president of the
4 University of Hawaii;

5 (6) The department of education, excluding the [~~Hawaii~~
6 ~~public~~] state library system--the superintendent of
7 education; the state library system--the state
8 librarian;

9 (7) The Hawaii health systems corporation--the chief
10 executive officer of the Hawaii health systems
11 corporation; and

12 (8) The remaining departments of the executive branch of
13 the State and all governmental bodies administratively
14 attached to them--the administrator of the state
15 procurement office of the department of accounting and
16 general services."

17 SECTION 4. Section 302A-101, Hawaii Revised Statutes, is
18 amended by adding a new definition to be appropriately inserted
19 and to read as follows:

20 "Commission" means the state library system commission."

21 SECTION 5. Section 302A-1106.5, Hawaii Revised Statutes,
22 is amended to read as follows:



1 "[+]§302A-1106.5[+] **Board of education; state library**
2 **system commission; community meetings.** (a) The board shall
3 hold [~~not less than~~] at least two community meetings annually in
4 each departmental school district in addition to their regular
5 meetings to discuss and receive input from the community on
6 public education [~~and public library issues~~]. The board
7 chairperson shall designate board members to attend the
8 community meetings. These community meetings shall not be held
9 for the purpose of formulating educational policy. The
10 community meetings shall be exempt from sections 92-2.5, 92-7,
11 92-9, and 92-41, provided that the board shall give written
12 public notice of each community meeting. The meeting notice
13 shall indicate the date, time, and place of the meeting, and
14 shall be filed in the office of the lieutenant governor and in
15 the board's office for public inspection six calendar days
16 before the meeting. The notice shall also be posted at the site
17 of the meeting.

18 (b) The commission shall hold at least two community
19 meetings annually in each departmental school district in
20 addition to its regular meetings to discuss and receive input
21 from the community on state library system issues. The state
22 librarian shall designate office members to attend the community



1 meetings. The community meetings shall be exempt from sections
 2 92-2.5, 92-7, 92-9, and 92-41, provided that the commission
 3 shall give written public notice of each community meeting. The
 4 meeting notice shall indicate the date, time, and place of the
 5 meeting, and shall be filed in the office of the lieutenant
 6 governor and in the commission's office for public inspection
 7 six calendar days before the meeting. The notice shall also be
 8 posted at the site of the meeting."

9 SECTION 6. Section 302A-1120, Hawaii Revised Statutes, is
 10 amended to read as follows:

11 "[+]§302A-1120[+] [~~Public~~] State library system; [board]
 12 control of commission. (a) The [~~board,~~] commission, through
 13 the state librarian, shall have direct control of the state
 14 library system, but [~~not including~~] excluding community and
 15 school libraries.

16 (b) The [~~board~~] commission may adopt rules under chapter
 17 91 for the purpose of this section."

18 SECTION 7. Section 312-1, Hawaii Revised Statutes, is
 19 amended to read as follows:

20 "§312-1 Duties of the [~~board of education.~~] state library
 21 system commission. The [~~board of education~~] state library
 22 system commission shall [~~care~~]:



- 1 (1) Care for, manage, and control all property set apart,
2 donated, loaned to, or in any manner acquired for the
3 use of libraries; [~~receive,~~]
- 4 (2) Receive, care for, expend, and account for any money
5 which may be received for the purpose of erecting
6 buildings for libraries or for any other purposes of
7 the libraries; [~~collect,~~]
- 8 (3) Collect, purchase, receive gifts of, and otherwise
9 acquire all books and other publications proper for
10 libraries, and arrange, classify, and catalogue the
11 same[+] and provide for their safekeeping; [~~expend~~]
- 12 (4) Expend moneys appropriated by the legislature and
13 otherwise acquired for the development, use, support,
14 and maintenance of libraries; [~~provide~~]
- 15 (5) Provide ways and means for placing libraries within
16 reach of all residents throughout the State and
17 particularly of [~~all public and private school~~]
18 children; [~~provide~~]
- 19 (6) Provide and maintain branch libraries, offices, or
20 places for the distribution of books and periodicals
21 throughout the State; [~~make~~]



- 1 (7) Make such contracts as [~~may be~~] are necessary to carry
- 2 into effect the general duties herein imposed;
- 3 [~~appoint~~]
- 4 (8) Appoint such officers and employees as it deems
- 5 necessary; and [~~make~~]
- 6 (9) Make rules for the management and use of libraries,
- 7 and for the control of the property under its
- 8 management."

9 SECTION 8. Section 312-2, Hawaii Revised Statutes, is
 10 amended to read as follows:

11 "**\$312-2 Powers of [~~board,~~] commission; special fund.** (a)

12 The [~~board of education~~] state library system commission may:

- 13 (1) Except as provided in section 312-3.9, make
- 14 arrangements or contracts as are approved by the
- 15 governor, with any county, city, association, society,
- 16 person, or persons, for the purpose of benefiting the
- 17 libraries and increasing their facilities and use;
- 18 (2) [~~Subject to section 26-12, enter into such~~] Enter into
- 19 an arrangement or a contract as is approved by the
- 20 governor, with the Friends of the Library of Hawaii,
- 21 for the purpose of obtaining the use of the books and

- 1 property and income of the Friends of the Library of
2 Hawaii;
- 3 (3) Cooperate by exchange and otherwise with libraries now
4 existing or hereafter to be formed;
- 5 (4) Receive, use, manage, or invest moneys or other
6 property, real, personal, or mixed which may be given,
7 bequeathed, devised, or in any manner received from
8 sources other than the legislature or any federal
9 appropriation for any or all purposes of the
10 libraries;
- 11 (5) Deposit with the director of finance in a special fund
12 all moneys donated to the [~~board~~] commission for
13 library services;
- 14 (6) Unless otherwise provided for by the terms and
15 conditions of the donation, convert, at such time as
16 the [~~board~~] commission may at its sole discretion
17 determine, any or all donations of property, real,
18 personal, or mixed, into money to be deposited into
19 the special fund; and
- 20 (7) Expend the moneys in the special fund in accordance
21 with the terms and conditions of each donation for the
22 purposes of the libraries.



1 The [~~board~~] commission shall be the trustee of the special fund
2 and all moneys therein shall be deemed to have been appropriated
3 to the use and for the purposes of the [~~board~~] commission in
4 providing library services.

5 (b) Nothing in this section shall be construed to [~~limit~~]:

6 (1) Limit the powers and duties of the [~~board hereinbefore~~
7 ~~expressed,~~] commission; or [~~to empower~~]

8 (2) Empower the [~~board~~] commission to obligate the State
9 financially in any sum which shall not have been
10 appropriated by the legislature for the use of the
11 [~~board.~~] commission."

12 SECTION 9. Section 312-2.1, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§312-2.1 Appointment of state librarian; duties; salary.**

15 (a) The state librarian shall be appointed by the [~~board of~~
16 ~~education,~~] state library system commission, without regard to
17 chapter 76, shall be under the direction of the [~~board,~~]
18 commission, shall be responsible for the operation, planning,
19 programming, and budgeting of [~~all community/school and public~~
20 ~~libraries within the State,~~] the state library system, and may
21 be removed by a majority vote of its members. The state
22 librarian may be appointed:

1 (1) Without regard to the state residency provisions of
2 section 78-1(b); and

3 (2) For a term of up to four years.

4 (b) The salary of the state librarian shall be set by the
5 [~~board of education~~] state library system commission at a rate
6 no greater than \$120,000 a year."

7 SECTION 10. Section 312-3, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§312-3 **Exchange of librarians.** (a) The [~~board of~~
10 ~~education~~] state library system commission may contract for the
11 exchange of librarians with librarians of any state, country, or
12 territory in accordance with this section, except as otherwise
13 provided in section 78-27. Local librarians so exchanged shall
14 be paid their regular salaries out of the funds appropriated for
15 personal services in the library budget for the library
16 concerned.

17 (b) The qualifications of all librarians from any [~~such~~]
18 state, country, or territory so exchanged shall be equal to
19 those of the local librarians exchanged. In the selection of
20 local librarians for exchange, preference shall be given to
21 persons born in the State. The requirements of citizenship
22 shall not apply to any librarian coming to the State from any



1 foreign state, country, or territory under any [~~such~~] contract
2 of exchange. All librarians so exchanged shall furnish their
3 own transportation to and from the state, country, or territory
4 with which exchanged.

5 (c) No compensation shall be paid by the State to visiting
6 exchange librarians; provided that in any case where the local
7 exchanged librarian becomes incapacitated or, for any reason,
8 leaves the exchanged position permanently, the library concerned
9 may pay the visiting exchange librarian an amount not to exceed
10 the salary rating of the local exchanged librarian, such an
11 arrangement to continue until the end of the period of exchange
12 or until such time as some satisfactory adjustment has been
13 made."

14 SECTION 11. Section 312-3.5, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§312-3.5 Detention of books and other [~~public~~] state
17 library system materials; penalty. (a) A person who detains a
18 book, newspaper, plate, picture, photograph, engraving,
19 painting, drawing, map, magazine, document, letter, government
20 record, microform, sound recording, audio visual materials in
21 any format, magnetic or other tapes, artifacts, or other
22 documentary (written or printed) materials belonging to [~~any~~



1 ~~public~~] the state library system or similar institution
2 controlled by the State for one day after the due date of the
3 [~~public library~~] materials, shall be subject to a nominal charge
4 established by the [~~board of education.~~] state library system
5 commission.

6 (b) A person detaining [~~such~~] books or [~~public~~] state
7 library system materials thirty days after the due date shall
8 be subject to a charge commensurate with the replacement value
9 of the books or [~~public~~] state library system materials."

10 SECTION 12. Section 312-3.9, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) The [~~board of education~~] state library system
13 commission shall take all steps possible in any outsourcing
14 contract in effect on July 1, 1997, including the development
15 and implementation of necessary procedures, to ensure formal
16 involvement by the state [~~public service~~] state library system
17 librarians in the selection of books and other library
18 materials."

19 SECTION 13. Section 312-4.6, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[+]§312-4.6[+] **Cost-recovery fees for the administration**
22 **of [Hawaii] state [~~public~~] library system.** (a) The [~~board of~~



1 ~~education]~~ state library system commission may charge and add a
2 fee to any amount due in accordance with its duties and powers
3 under section 312-1 for:

4 (1) Any cost or expense incurred by the [~~Hawaii~~] state
5 [~~public~~] library system as a result of any action
6 taken to enforce the collection of costs of lost books
7 and any overdue fines and fees charged to that patron
8 after the [~~public~~] state library system has mailed
9 written notice demanding payment and advising that
10 continued failure to pay the amount due may result in
11 collection action being taken, including the
12 imposition of cost-recovery fees, not to exceed \$10,
13 pursuant to this section. Any cost-recovery fee
14 charged against the patron for costs, fees, and other
15 charges may include collection agency fees, attorneys'
16 fees, court filing fees, and similar fees incurred by
17 the [~~Hawaii~~] state [~~public~~] library system in
18 connection with the collection action;

19 (2) [~~Hawaii-public~~] State library system sponsored
20 seminars or workshops, including educational materials
21 in various media format; and



1 (3) Research and reference materials published on magnetic
2 media, CD-ROM, or other machine-readable form.

3 (b) Interest shall not accrue with respect to any fee
4 under this section.

5 (c) Notwithstanding any other [~~provisions~~] provision under
6 this chapter, whenever a patron makes a partial payment of a
7 particular delinquent amount, the amount received by the
8 [~~Hawaii~~] state [~~public~~] library system shall first be credited
9 to the fees charged under this section, in the order the fees
10 were charged.

11 (d) The [~~board of education~~] state library system
12 commission shall prescribe the procedures relating to:

13 (1) The charging of fees;

14 (2) The waiver of fees;

15 (3) The documents, materials, and services for which fees
16 may be charged;

17 (4) The amount of the fees that may be assessed and
18 charged to a library patron;

19 (5) The accumulated amount of lost library material costs,
20 fines, or fees;

21 (6) The period of time that the lost library materials
22 costs, fines, or fees must remain unpaid before they



1 may be referred to a collection agency for collection
2 pursuant to rules adopted under chapter 91; and

3 (7) The notification of persons with delinquent accounts
4 of the additional fees to be charged by the collection
5 agency prior to the referral to the collection agency.

6 (e) The state librarian may waive any fee imposed by the
7 ~~[Hawaii]~~ state ~~[public]~~ library system under chapter 312 in
8 cases of hardship as prescribed by rules adopted under chapter
9 91.

10 (f) Upon its collection, the cost-recovery fee shall be
11 deposited into the libraries special fund established by section
12 312-3.6 and shall be expended as prescribed by law."

13 SECTION 14. Section 312-5, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§312-5 Annual report to the governor.** Annually during
16 the month of July ~~[but as of June 30 preceding]~~, the ~~[board of~~
17 ~~education]~~ state library system commission shall report to the
18 governor the moneys received from all sources and expended for
19 all purposes during the preceding year, and any other matters
20 pertaining to the libraries which it may deem important, or the
21 governor may require."



1 SECTION 15. Section 312-8, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) In addition to its other duties, the [~~board of~~
4 ~~education,~~] state library system commission, through the state
5 librarian, shall:

6 (1) Provide for the establishment and ongoing operation of
7 a literacy and lifelong learning program for the
8 public libraries in the State;

9 (2) Provide coordination and facilitation of the
10 activities of literacy service providers and literacy
11 programs in the public, private, and volunteer
12 sectors; and

13 (3) Develop public-private sector literacy partnerships
14 for literacy program support."

15 SECTION 16. Section 312-21, Hawaii Revised Statutes, is
16 amended as follows:

17 1. By amending subsection (a) to read:

18 "(a) The [~~board of education,~~] state library system
19 commission, through the state librarian, shall:

20 (1) Provide for the establishment and ongoing operation of
21 a fee for enhanced service program, which includes but
22 is not limited to the planning, programming, and



1 budgeting of operating, research and development, and
2 capital investment programs; and

3 (2) Administer a special fund to be known as the "library
4 fee for enhanced services special fund".

5 2. By amending subsection (c) to read:

6 (c) The state librarian, with the approval of the [~~board~~
7 ~~of education,~~] state library system commission, shall determine
8 the types and kinds of enhanced services to be included under
9 the fee for enhanced services program; provided that a schedule
10 of fees for these enhanced services shall be adopted in
11 accordance with chapter 91. Libraries shall not be obligated to
12 offer all of the services specified in the fee for enhanced
13 services program, and each public library shall determine which
14 services it will provide."

15 SECTION 17. All rights, powers, functions, and duties of
16 the board of education relating to the state library system are
17 transferred to the state library system commission.

18 All officers and employees whose functions are transferred
19 by this Act shall be transferred with their functions and shall
20 continue to perform their regular duties upon their transfer,
21 subject to the state personnel laws and this Act.



1 No officer or employee of the State having tenure shall
2 suffer any loss of salary, seniority, prior service credit,
3 vacation, sick leave, or other employee benefit or privilege as
4 a consequence of this Act, and such officer or employee may be
5 transferred or appointed to a civil service position without the
6 necessity of examination; provided that the officer or employee
7 possesses the minimum qualifications for the position to which
8 transferred or appointed; and provided that subsequent changes
9 in status may be made pursuant to applicable civil service and
10 compensation laws.

11 An officer or employee of the State who does not have
12 tenure and who may be transferred or appointed to a civil
13 service position as a consequence of this Act shall become a
14 civil service employee without the loss of salary, seniority,
15 prior service credit, vacation, sick leave, or other employee
16 benefits or privileges and without the necessity of examination;
17 provided that such officer or employee possesses the minimum
18 qualifications for the position to which transferred or
19 appointed.

20 If an office or position held by an officer or employee
21 having tenure is abolished, the officer or employee shall not
22 thereby be separated from public employment, but shall remain in



1 the employment of the State with the same pay and classification
2 and shall be transferred to some other office or position for
3 which the officer or employee is eligible under the personnel
4 laws of the State as determined by the head of the department or
5 the governor.

6 SECTION 18. All appropriations, records, equipment,
7 machines, files, supplies, contracts, books, papers, documents,
8 maps, and other personal property heretofore made, used,
9 acquired, or held by the board of education relating to the
10 functions transferred to the state library system commission
11 shall be transferred with the functions to which they relate.

12 SECTION 19. All rules, policies, procedures, guidelines,
13 and other material adopted or developed by the board of
14 education shall remain effective until amended or repealed by
15 the state library system commission pursuant to chapter 91,
16 Hawaii Revised Statutes. In the interim, every reference to the
17 board of education in the rules, policies, procedures,
18 guidelines, and other material is amended to refer to the state
19 library system commission.

20 SECTION 20. It is the intent of this Act not to jeopardize
21 the receipt of any federal aid nor to impair the obligation of
22 the State or any agency thereof to the holders of any bond



Report Title:

State Library System; Commission

Description:

Establishes a new state library system commission. Transfers oversight of libraries in the state library system, except for community and school libraries, from the board of education to the commission.

