

JAN 20 2012

S.B. NO. 2587

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# A BILL FOR AN ACT

RELATING TO CHARTER SCHOOLS.

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

1       SECTION 1. The legislature finds that article X, section 1  
2 of the Hawaii State Constitution clearly indicates that the  
3 State has a constitutional obligation to support charter school  
4 facilities: "The State shall provide for the establishment,  
5 support and control of a statewide system of public schools free  
6 from sectarian control, a state university, public libraries and  
7 such other educational institutions as may be deemed desirable,  
8 including physical facilities therefor."

9       Department of education schools that convert to charter  
10 school status have pre-existing facilities and remain on the  
11 department's regular repair and maintenance and capital  
12 improvement program schedules. Currently, all of Hawaii 3R's  
13 projects must be selected from the department of accounting and  
14 general services repair and maintenance backlog unfunded list,  
15 which includes public conversion charter schools; start-up  
16 charter schools, however, receive no such support and have  
17 historically received legislative appropriations for facilities  
18 assistance on an ad hoc basis.



1        Although public-private partnerships are not intended to  
2        serve as the exclusive means of meeting the State's  
3        constitutional obligation to support charter school facilities,  
4        the legislature finds that innovative, cost-effective public-  
5        private partnerships present a promising way to address the lack  
6        of funding for the establishment, repair, and maintenance of  
7        charter schools. The legislature further finds that  
8        public-private partnerships would provide a mechanism to  
9        leverage scarce public resources with private resources and to  
10       use state investments to leverage federal funding, which often  
11       is contingent upon state funding, for charter school facilities.

12       The purpose of this Act is to support the funding of  
13       charter school facilities by establishing a program similar to  
14       the Hawaii 3R's. This objective is accomplished by creating the  
15       Hawaii charter school facilities fund, which will support only  
16       start-up and conversion charter schools, not-for-profit  
17       corporations supporting charter schools, and community  
18       development financial institutions supporting charter schools.  
19       This program differs from Hawaii 3R's in that it would:

- 20        (1) Be expanded to include acquisition, predevelopment,  
21        rehabilitation, construction, and other capital



1 improvement projects, in addition to repair and  
2 maintenance; and

3 (2) Accommodate the greater complexity of capital  
4 improvement projects.

5 SECTION 2. Chapter 302B, Hawaii Revised Statutes, is  
6 amended by adding a new section to be appropriately designated  
7 and to read as follows:

8 "§302B- Hawaii charter school facilities fund. (a)

9 There is established the Hawaii charter school facilities fund  
10 as a separate fund of Lei Hoolaha, a Hawaii nonprofit  
11 corporation, into which shall be deposited:

12 (1) Appropriations by the legislature to the Hawaii  
13 charter school facilities fund;

14 (2) Contributions, grants, endowments, gifts in cash or  
15 otherwise, loans, and bond financing from all sources,  
16 including corporations or other businesses,  
17 foundations, government, individuals, and other  
18 interested parties; and

19 (3) Income and capital gains earned by the fund.

20 (b) The fund shall be administered by Lei Hoolaha, and the  
21 moneys in the fund shall be used only for the specific purposes  
22 for which the fund is established, pursuant to this section.



1        (c) Lei Hoolaha shall spend moneys from the fund in the  
2   form of grants, loans, or contracts to charter schools,  
3   nonprofit corporations that benefit start-up and conversion  
4   charter schools, or contracts with private vendors for the  
5   repair, maintenance, acquisition, predevelopment,  
6   rehabilitation, construction, or other capital improvement  
7   projects of charter school facilities, or facilities  
8   administered, operated, or developed by nonprofit corporations  
9   for the support of charter schools in Hawaii in accordance with  
10   this section. Lei Hoolaha may prioritize funding for projects  
11   that exhibit best practices in green building or sustainable  
12   construction, rehabilitation, repair, and maintenance.

13        (d) There is established the Hawaii charter school  
14   facilities fund advisory board within the charter school  
15   administrative office, for administrative purposes. The Hawaii  
16   charter school facilities fund advisory board shall consist of  
17   the executive director of the office, who shall serve as an ex  
18   officio non-voting member, and five members who shall be  
19   appointed without regard to section 26-34 as follows: Lei  
20   Hoolaha shall appoint two members, the Hawaii charter school  
21   network shall appoint two members, and the charter school review



panel shall appoint one member. The Hawaii charter school facilities fund advisory board shall be responsible for:

(1) Soliciting and otherwise raising funds for the Hawaii charter school facilities fund;

(2) Establishing criteria for the expenditure of funds;

(3) Reviewing grant and loan proposals using criteria established by the board;

(4) Making recommendations for grants, loans, and other specific expenditures; and

(5) Engaging in other activities necessary to support the prudent and efficient operation of the Hawaii charter school facilities fund.

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



1        (f) There may be an endowment component of the Hawaii  
2 charter school facilities fund which allows Lei Hoolaha to  
3 accumulate net income, which shall be added to the principal.

4        (g) The legislature may restrict the uses of the moneys  
5 that the legislature appropriates to the Hawaii charter school  
6 facilities fund.

7        (h) At the time of application, any organization  
8 submitting a proposal to Lei Hoolaha for moneys shall:

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

14        (2) Have experience with the project or in the program  
15 area for which the proposal is being made; and

16        (3) Be licensed and accredited, as applicable, in  
17 accordance with the requirements of federal, state,  
18 and county governments.

19        (i) Organizations or agencies to which moneys are awarded  
20 shall agree to comply with the following conditions prior to  
21 receiving the award:



1        (1) Use only persons qualified to engage in the activity  
2                    to be funded;

3        (2) Comply with all applicable federal, state, and county  
4                    laws; and

5        (3) Comply with any other requirements prescribed by Lei  
6                    Hoolaha to ensure adherence by the recipient of the  
7                    award with applicable federal, state, and county laws,  
8                    ordinances, rules, and regulations, and with the  
9                    purposes of this section.

10       (j) Chapter 103D shall not apply to organizations or  
11 agencies that apply for grants or contracts under this section;  
12 provided that Lei Hoolaha shall be held accountable for the use  
13 of the funds.

14       (k) The Hawaii charter school facilities fund shall be  
15 audited annually by an independent auditor. The results of each  
16 annual audit shall be submitted to the department of budget and  
17 finance no later than thirty days from the date Lei Hoolaha  
18 receives the audit results. Lei Hoolaha shall retain the  
19 auditor's report for a period of three years and permit the  
20 department of budget and finance, state legislators, and the  
21 auditor, or their duly authorized representatives, to inspect  
22 and have access to any documents, papers, books, records, and



1 other evidence that is pertinent to the Hawaii charter school  
2 facilities fund.

3 (1) The fund shall not be placed in the state treasury,  
4 and the State shall not administer the fund, nor shall the State  
5 be liable for the operation or solvency of the fund or Lei  
6 Hoolaha.

7 (m) For every \$1 of state moneys granted by the Hawaii  
8 charter school facilities fund to the project, there shall be a  
9 minimum of \$1 in value matched by private, federal, or county  
10 sources; provided that this matching value may include:

11 (1) The fair market value of contributions of in-kind  
12 goods and services;

13 (2) Federal funding intended for charter schools that  
14 passes through the department of education as the  
15 federally designated state education agency or local  
16 education agency;

17 (3) Federal funding that passes through any agency, board,  
18 panel, or other subdivision of the State for the  
19 benefit of charter schools; and

20 (4) Any funding from the office of Hawaiian affairs that  
21 did not originate as general revenues appropriated to  
22 it by the legislature.





1        (n) Lei Hoolaha shall submit an annual report to the  
2        legislature on the progress of the fund no later than twenty  
3        days prior to the convening of each regular session."

4        SECTION 3. Section 36-27, Hawaii Revised Statutes, is  
5        amended by amending subsection (a) to read as follows:

6        "(a) Except as provided in this section, and  
7        notwithstanding any other law to the contrary, from time to  
8        time, the director of finance, for the purpose of defraying the  
9        prorated estimate of central service expenses of government in  
10       relation to all special funds, except the:

- 11       (1) Special out-of-school time instructional program fund  
12       under section 302A-1310;
- 13       (2) School cafeteria special funds of the department of  
14       education;
- 15       (3) Special funds of the University of Hawaii;
- 16       (4) State educational facilities improvement special fund;
- 17       (5) Convention center enterprise special fund under  
18       section 201B-8;
- 19       (6) Special funds established by section 206E-6;
- 20       (7) Housing loan program revenue bond special fund;
- 21       (8) Housing project bond special fund;
- 22       (9) Aloha Tower fund created by section 206J-17;



- 1 (10) Funds of the employees' retirement system created by
- 2 section 88-109;
- 3 (11) Unemployment compensation fund established under
- 4 section 383-121;
- 5 (12) Hawaii hurricane relief fund established under chapter
- 6 431P;
- 7 (13) Hawaii health systems corporation special funds and
- 8 the subaccounts of its regional system boards;
- 9 (14) Tourism special fund established under section
- 10 201B-11;
- 11 (15) Universal service fund established under section
- 12 269-42;
- 13 (16) Emergency and budget reserve fund under section
- 14 328L-3;
- 15 (17) Public schools special fees and charges fund under
- 16 section 302A-1130;
- 17 (18) Sport fish special fund under section 187A-9.5;
- 18 (19) Glass advance disposal fee established by section
- 19 342G-82;
- 20 (20) Center for nursing special fund under section
- 21 304A-2163;



(21) Passenger facility charge special fund established by  
section 261-5.5;

(22) Court interpreting services revolving fund under  
section 607-1.5;

(23) Hawaii cancer research special fund;

(24) Community health centers special fund;

(25) Emergency medical services special fund;

(26) Rental motor vehicle customer facility charge special  
fund established under section 261-5.6; [and]

(27) Shared services technology special fund under section  
27-43 [7]; and

(28) Hawaii charter school facilities fund established  
under section 302B- ,

shall deduct five per cent of all receipts of all special funds,  
which deduction shall be transferred to the general fund of the  
State and become general realizations of the State. All  
officers of the State and other persons having power to allocate  
or disburse any special funds shall cooperate with the director  
in effecting these transfers. To determine the proper revenue  
base upon which the central service assessment is to be  
calculated, the director shall adopt rules pursuant to chapter  
91 for the purpose of suspending or limiting the application of



1 the central service assessment of any fund. No later than  
2 twenty days prior to the convening of each regular session of  
3 the legislature, the director shall report all central service  
4 assessments made during the preceding fiscal year."

5 SECTION 4. Section 36-30, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

7 "(a) Each special fund, except the:

8 (1) Transportation use special fund established by section  
9 261D-1;

10 (2) Special out-of-school time instructional program fund  
11 under section 302A-1310;

12 (3) School cafeteria special funds of the department of  
13 education;

14 (4) Special funds of the University of Hawaii;

15 (5) State educational facilities improvement special fund;

16 (6) Special funds established by section 206E-6;

17 (7) Aloha Tower fund created by section 206J-17;

18 (8) Funds of the employees' retirement system created by  
19 section 88-109;

20 (9) Unemployment compensation fund established under  
21 section 383-121;



- 1       (10)   Hawaii hurricane relief fund established under section
- 2               431P-2;
- 3       (11)   Convention center enterprise special fund established
- 4               under section 201B-8;
- 5       (12)   Hawaii health systems corporation special funds and
- 6               the subaccounts of its regional system boards;
- 7       (13)   Tourism special fund established under section
- 8               201B-11;
- 9       (14)   Universal service fund established under section
- 10              269-42;
- 11       (15)   Emergency and budget reserve fund under section
- 12              328L-3;
- 13       (16)   Public schools special fees and charges fund under
- 14              section 302A-1130;
- 15       (17)   Sport fish special fund under section 187A-9.5;
- 16       (18)   Center for nursing special fund under section
- 17              304A-2163;
- 18       (19)   Passenger facility charge special fund established by
- 19              section 261-5.5;
- 20       (20)   Court interpreting services revolving fund under
- 21              section 607-1.5;
- 22       (21)   Hawaii cancer research special fund;



1 (22) Community health centers special fund;

2 (23) Emergency medical services special fund;

3 (24) Rental motor vehicle customer facility charge special  
4 fund established under section 261-5.6; [and]

5 (25) Shared services technology special fund under section  
6 27-43 [7]; and

7 (26) Hawaii charter school facilities fund established  
8 under section 302B- ,

9 shall be responsible for its pro rata share of the  
10 administrative expenses incurred by the department responsible  
11 for the operations supported by the special fund concerned."

12 SECTION 5. There is appropriated out of the general  
13 revenues of the State of Hawaii the sum of \$ or so much  
14 thereof as may be necessary for fiscal year 2012-2013 for the  
15 Hawaii charter school facilities fund.

16 The sum appropriated shall be expended by the department of  
17 education for the purposes of this Act.

18 SECTION 6. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20



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

2

INTRODUCED BY: *Rozanne Chun Oallala*

*Chae Juhmaga*



**Report Title:**

Charter School Facilities Fund; Appropriation

**Description:**

Establishes the Hawaii charter school facilities fund for funding the repair, maintenance, and other facilities needs of charter schools. Establishes the Hawaii charter school facilities fund advisory board within the charter school administrative office, to establish criteria for the expenditure of funds, among other things. Exempts the fund from the special fund assessments on gross receipts and for administrative expenses incurred by the department responsible for the operations supported by the fund. Appropriates funds for the fund.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

