

Honolulu, Hawaii

APR 03 2012

RE: H.B. No. 1054  
H.D. 1  
S.D. 1

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committee on Education, to which was referred H.B. No. 1054, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EDUCATION,"

begs leave to report as follows:

The purpose and intent of this measure is to amend chapter 302A, Hawaii Revised Statutes (HRS), to require the Committee on Weights to meet not less than once every odd-numbered year.

Prior to holding a hearing on this measure, a proposed S.D. 1 was prepared and made available for public review.

The proposed S.D. 1 amended this measure by deleting its contents and replacing it with the contents of S.B. No. 2994, S.D. 2, Regular Session of 2012 (S.B. 2994), which:

- (1) Authorizes the Board of Education to enter into an agreement with any tax-exempt nonprofit corporation recognized under section 501(c)(3) of the Internal Revenue Code to obtain the use of the books and property and income of that nonprofit;
- (2) Authorizes the deposit of monies collected pursuant to section 312-3.8, HRS, into the libraries special fund;
- (3) Amends section 312-3.8, HRS, to:



- (A) Authorize the head librarian of each library branch, with the approval of the State Librarian, and in consultation with the Board of Education, to issue licenses, revocable permits, concessions, or rights of entry for the use of public library facilities and grounds;
  - (B) Remove references to the Hawaii State Library Foundation and Friends of the Library of Hawaii;
  - (C) 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;
  - (D) 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;
  - (E) Clarify that any book sale held within, or on the grounds of, any state library facility is not a concession; and
  - (F) Require the Board of Education to adopt administrative rules to carry out the purposes of this section; and
- (4) Repeals the Hawaii state library foundation trust fund.

Prior to receiving testimony on the proposed S.D. 1, your Committee further amended the proposed S.D. 1 by:

- (1) Clarifying that the Board of Education may enter into an agreement not only with a nonprofit corporation but also with an affiliate of the nonprofit corporation to obtain the use of the books, property, and income of either the nonprofit corporation or its affiliate;



- (2) Authorizing the deposit of private donations into the libraries special fund;
- (3) Clarifying that privately donated monies for the benefit of a specific library shall be disbursed to the specific public library for the sole use of that library; and
- (4) Clarifying that the State Librarian may establish subaccounts within the libraries special fund.

Your Committee received testimony in support of the proposed S.D. 1 from the Hawaii State Public Library System, Friends of the Maui County Library dba Maui Friends of the Library, and three hundred twenty individuals. Your Committee received testimony in opposition to the proposed S.D. 1 from the Friends of the Library of Hawai'i and twenty-five individuals.

Your Committee finds that under existing law, the State Librarian may issue licenses, revocable permits, concessions, and rights of entry to only two entities: the Hawaii State Library Foundation and Friends of the Library of Hawaii. Your Committee is concerned that allowing exclusive use of state facilities creates a special privilege for specific private entities even though other private entities may be able to provide an equal or greater benefit to the Hawaii State Public Library System and to a specific library branch if given an equal opportunity to participate.

In addition, your Committee believes that the original intent of the existing law was not to create exclusive-use privileges but rather to encourage and create ways to best support public libraries by encouraging public-private partnerships at the community level.

Your Committee further finds that individuals and entities who truly wish to support their public libraries will not be deterred from doing so under this measure.

Your Committee has amended this measure by adopting the proposed S.D. 1 and further amending the measure by:

- (1) Retaining the statutory language establishing the Hawaii state library foundation trust fund;



- (2) Adding language to require the Hawaii State Library Foundation to submit the results of their annual audit to the Board of Education and the Legislature rather than to the Department of Education;
- (3) Clarifying that privately donated monies that are specified by the donor to be for the benefit of a specific library may also be made for multiple libraries;
- (4) Clarifying that the head librarian of each library branch is authorized to request the issuance of licenses, revocable permits, concessions, or rights of entry for the use of library facilities and grounds, with the approval of the State Librarian, in consultation with the Board of Education; and
- (5) Adding language to require the State Librarian to administer any licenses, revocable permits, concessions, or rights of entry for the use of library facilities and grounds.

Your Committee finds that this measure, as amended, will provide greater accountability and transparency over funds generated by the use of public library facilities and grounds.

In addition, your Committee urges that pursuant to the authority granted to the State Librarian in section 312-3.3, HRS, the State Librarian consider the reallocation of vacant positions to create a business manager position or chief financial officer position to handle any specialized human resources needs the Hawaii State Public Library System may encounter in meeting the requirements of this measure.

As this measure progresses through the legislative process, your Committee notes that there may be a need for the Department of the Attorney General to determine whether section 312-3.7, HRS, relating to the Hawaii state library foundation trust fund, requires further amendments because the Hawaii State Library Foundation no longer exists and another private entity is currently in charge of the trust fund and its monies.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of



H.B. No. 1054, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1054, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Education,



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JILL TOKUDA, Chair



**Record of Votes**  
**Committee on Education**  
**EDU**

\*Only one measure per Record of Votes