

# SB854

**Measure Title:** RELATING TO PUBLIC SCHOOL LANDS.  
**Report Title:** Public School Lands  
**Description:** Requires public school lands that are leased to benefit public educational purposes rather than simply to be used for public purposes. Authorizes the DOE to enter into lease-back agreements.  
**Companion:** [HB230](#)  
**Package:** None  
**Current Referral:** EDU/GVO, WAM  
**Introducer(s):** KIDANI, GALUTERIA, INOUYE, KAHELE, NISHIHARA

<a href="#">Sort by Date</a>		Status Text
1/23/2015	S	Introduced.
1/26/2015	S	Passed First Reading.
1/28/2015	S	Referred to EDU/GVO, WAM.
2/6/2015	S	The committee(s) on EDU/GVO has scheduled a public hearing on 02-11-15 1:15PM in conference room 229.

S = Senate | H = House | D = Data Systems | \$ = Appropriation measure | ConAm = Constitutional Amendment



STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

**Date:** 02/11/2015  
**Time:** 01:15 PM  
**Location:** 229  
**Committee:** Senate Education

**Department:** Education

**Person Testifying:** Kathryn S. Matayoshi, Superintendent of Education

**Title of Bill:** SB 0854 RELATING TO PUBLIC SCHOOL LANDS.

**Purpose of Bill:** Requires public school lands that are leased to benefit public educational purposes rather than simply to be used for public purposes. Authorizes the DOE to enter into lease-back agreements.

**Department's Position:**

The Department of Education (DOE) supports S.B. 0854. The provisions in this bill help to strengthen and clarify the legislative intent and makes the requirements of Section 302A - 115.1, Hawaii Revised Statutes clearer and more transparent.

In particular, the changes clarify the intent that the pilot projects are to benefit public education purposes' and ensure that the procurement process will comply with the requirements of Chapter 103D.

Finally the added lease-back options will provide the DOE with added flexibility and options in determining the most beneficial course of action to follow.

Thank you for this opportunity to provide testimony.

# BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

THE VOICE OF THE CONSTRUCTION INDUSTRY

## 2015 OFFICERS

PRESIDENT  
RICHARD HOBSON, JR.  
GENTRY HOMES, LTD.

PRESIDENT-ELECT  
CRAIG WASHOFSKY  
SERVCO HOME & APPLIANCE  
DISTRIBUTION

VICE PRESIDENT  
EVAN FUJIMOTO  
GRAHAM BUILDERS, INC.

TREASURER  
GUY J. SHINDO  
FIRST HAWAIIAN BANK

SECRETARY  
MICHAEL WATANABE  
JW, INC.

SPECIAL APPOINTEE-BUILDER  
PAUL D. SILEN  
HAWAIIAN DREDGING  
CONSTRUCTION CO, INC

SPECIAL APPOINTEE-BUILDER  
MARK KENNEDY  
HASEKO CONSTRUCTION  
MANAGEMENT GROUP, INC.

SPECIAL APPOINTEE-ASSOCIATE  
DEAN UCHIDA  
SSFM INTERNATIONAL, INC.

IMMEDIATE PAST PRESIDENT  
BRIAN K. ADACHI  
BKA BUILDERS, INC.

CHIEF EXECUTIVE OFFICER  
GLADYS MARRONE  
BIA-HAWAII

## 2015 DIRECTORS

ANTHONY BORGE  
RMA SALES

CARLETON CHING  
CASTLE & COOKE HOMES  
HAWAII, INC.

CHRIS CHEUNG  
CC ENGINEERING &  
CONSTRUCTION, INC.

CLIFTON CRAWFORD  
C&J CONTRACTING, INC.

CURT KIRIU  
CK INDEPENDENT LIVING BUILDERS

DWIGHT MITSUNAGA  
DM PACIFIC, INC.

GARY T. OKIMOTO  
HONOLULU WOOD TREATING

JACKSON PARKER  
D.R. HORTON, SCHULER DIVISION

JENNIFER ANDREWS  
COLDWELL BANKER PACIFIC  
PROPERTIES

LILI SHINTANI  
ALAN SHINTANI, INC.

MARK HERTEL  
INTER-ISLAND SOLAR SUPPLY,  
OAHU-MAUI-HAWAII-KAUAI

SARAH LOVE  
BAYS LUNG ROSE & HOLMA

MAILING  
P.O. BOX 970967  
WAIPAHU, HAWAII  
96797-0967

STREET  
94-487 AKOKI STREET,  
WAIPAHU, HAWAII 96797

P 808.847.4666  
F 808.440.1198

E INFO@BIAHAWAII.ORG

WWW.BIAHAWAII.ORG

## Testimony to the Senate Committees on Education and Government Operations

Wednesday, February 11, 2015

1:45 p.m.

State Capitol - Conference Room 229

### **RE: SENATE BILL 854 RELATING TO PUBLIC SCHOOL LANDS**

Chairs Kidani and Dela Cruz, Vice-Chairs Harimoto and Nishiraha, and members of the Committees:

My name is Gladys Marrone, Chief Executive Officer for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-Hawaii **supports** S.B. 854, which proposes to require public school lands that are leased to benefit public educational purposes rather than simply to be used for public purposes. Authorizes the DOE to enter into lease-back agreements.

Since the approval of Act 155 in 2013, the DOE has been meeting with government agencies such as the Office of Environmental Quality Control (OEQC), the City and County of Honolulu, and the Department of Planning and Permitting to insure the implementation of Act 155 complies with all applicable laws. In addition, DOE has also been meeting with various private developers to structure a process that complies with all existing laws, and that will attract private developers to invest in the redevelopment of underutilized DOE facilities.

The proposed bill is in response to comments received in the initial round of discussions with agencies, developers and other interested parties. It provides clarification in certain areas of the Act and allows for the possibility of a public-private partnership through a simple "lease-back" arrangement.

We strongly encourage the Legislature to approve the proposed amended language that will allow the implementation of Act 155 to proceed in an expeditious manner.

Thank you for the opportunity to express our views on this matter.



February 9, 2015

Senator Michelle N. Kidani, Chair  
Senator Breen Harimoto, Vice Chair  
Senate Committee on Education

Senator Donovan M. Dela Cruz, Chair  
Senator Clarence K. Nishihara, Vice Chair  
Senate Committee on Government Operations

**Comments Regarding SB 854 Relating to Public School Lands (Requires public school lands that are leased to benefit public educational purposes rather than to be used for public purposes; Authorizes the State Department of Education [DOE] to enter into lease-back agreements).**

**Wednesday, February 11, 2015, 1:15 p.m., in CR 229**

The Land Use Research Foundation of Hawaii (“LURF”) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. LURF’s mission is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii’s significant natural and cultural resources, and public health and safety.

**SB 854.** The stated purpose of this bill is to amend Hawaii Revised Statutes (HRS) Section 302A-1151.1 to require public school lands that are leased to benefit public educational purposes rather than simply to be used for public purposes. The bill also proposes to amend HRS Section 302A-1151.1 to authorize the DOE to enter into lease-back agreements.

**LURF’s Position.** LURF supports the intent of SB 854, because it supports and furthers innovative methods through which the State may use its assets to obtain funding to benefit Hawaii’s public schools and public school children. As presently drafted, however, the language of this bill is confusing and in LURF’s opinion, defeats the purpose of the proposed amendment to Hawaii Revised Statutes (HRS) Section 302A-1151.1, and could prompt disagreement as to the allowable purposes for which the public school lands may be leased and used.

The pilot program to lease public school land under HRS Section 302A-1151.1 was established in recognition of the unmet community development needs of the State, including undercapitalized public school facilities, and the need to cooperate with private enterprise and the various components of government to bring the proposed project to fruition. Legislation enabling the DOE to lease public school land was drafted to state that the DOE was allowed to do so on

specified terms, to lessees who would modify, construct, or utilize facilities to “meet public purposes.”

LURF understands that the intent underlying this effort was always to allow the lease and redevelopment of public school lands for any purpose, so long as the revenue from any such redevelopment would be applied toward public educational purposes.

SB 854, however, now proposes confusing amendments which mandate that lessees of the public school lands and facilities must construct, maintain and operate said facilities “to benefit public educational purposes,” which seems to restrict the use of the subject school lands only to the development and operation of public educational type or public education-related facilities, thereby drastically reducing interest of potential lessees.

The proposed amendment contained in SB 854 which attempts to define the term “**public educational benefits**” (see amendment to subsection (f) on page 4 of the bill) is equally, if not more disconcerting, since the phrase “**to benefit public educational purposes**” is what is referred to and used theretofore throughout the bill.

LURF therefore believes clarifications by the proponents of SB 854 are necessary for this Committee and the public to consider.

**Conclusion.** LURF continues to support inventive means of utilizing excess and underused public school assets to generate funding for the benefit of public school children. However, in order to effectively effectuate the intent of legislation specifically enacted for this purpose, LURF suggests that this bill be further clarified.

Thank you for the opportunity to provide comments relating to this measure.



**Testimony to the Senate Committee on Education and Committee on  
Government Operations  
Wednesday, February 11, 2015 at 1:15 P.M.  
Conference Room 229, State Capitol**

**RE: SENATE BILL 854 RELATING TO PUBLIC SCHOOL LANDS**

Chairs Kidani and Dela Cruz, Vice Chairs Harimoto and Nishihara, and Members of the Committees:

The Chamber of Commerce of Hawaii ("The Chamber") **supports** SB 854, which requires public school lands that are leased to benefit public educational purposes rather than simply to be used for public purposes and authorizes the DOE to enter into lease-back agreements.

The Chamber is the largest business organization in Hawaii, representing over 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

Since its approval in 2013, the DOE has been meeting with government agencies such as the Office of Environmental Quality Control (OEQC) and the City and County of Honolulu, Department of Planning and Permitting to insure the implementation of Act 155 complies will all applicable laws. In addition, DOE has also been meeting with various private developers to structure a process that complies will all existing laws, and will attract private developers to invest in the redevelopment of underutilized DOE facilities.

The proposed bill is in response to comments received in the initial round of discussions with agencies, developers and other interested parties. It provides clarification in certain areas of the Act and allows for the possibility of a public-private partnership through a simple "lease-back" arrangement.

We strongly encourage the Legislature to approve the proposed amended language that will allow the implementation of Act 155 to proceed in an expeditious manner.

Thank you for the opportunity to testify.