

JAN 19 2018

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# A BILL FOR AN ACT

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RELATING THE TRANSFER OF LANDS.

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

1       SECTION 1. The legislature finds that Act 97, Session Laws  
2 of Hawaii 1965, transferred the responsibility for functions  
3 that were deemed to be of statewide concern from the counties to  
4 the State. Among these functions were the planning,  
5 construction, improvement, and maintenance of public school  
6 facilities and grounds, and the transportation of school  
7 children. Prior to the passage of Act 97, Session Laws of  
8 Hawaii 1965, the counties issued bonds to plan, construct,  
9 improve, and maintain public school facilities and grounds.  
10 Since these functions are now wholly the responsibility of the  
11 State, it only makes sense to begin transferring all remaining  
12 county lands and improvements under the department of education  
13 to the State.

14       Act 154, Session Laws of Hawaii 2003, conveyed fee simple  
15 title of all county of Hawaii lands being used by the department  
16 of education to the State. The county of Hawaii was the only



1 county to have legislation passed to convey the fee simple  
2 interest in its properties to the State.

3 The State of Hawaii's department of education has invested  
4 significant public funds on the maintenance and capital  
5 improvement projects for new school facilities. The expenditure  
6 of these public funds was done without regard to the underlying  
7 fee ownership of the property. If the school is on county land,  
8 this investment in vertical improvements is transferred to the  
9 county when a school is closed, which is what happened when  
10 Wailupe elementary school closed.

11 The legislature further finds that Act 155, Session Laws of  
12 Hawaii 2013, provided the department of education with the  
13 authority to develop its assets to create twenty-first century  
14 schools. Act 155 also allowed the department of education to  
15 explore different mechanisms to redevelop its assets, including  
16 revenue generation in support of investments in twenty-first  
17 century schools.

18 The legislature additionally finds that the department of  
19 education is responsible for approximately 2,120  
20 acres/92,353,688 square feet of land under its school facilities  
21 within the city and county of Honolulu. Of this total land



1 area, the city and county of Honolulu owns approximately one-  
2 half of the land under the existing school facilities,  
3 approximately one thousand and four acres/43,753,360 square  
4 feet.

5 The legislature finds that the split ownership of the  
6 underlying fee simple lands under existing schools creates  
7 problems for redevelopment, especially when private investment  
8 is involved. In order to allow the department of education  
9 flexibility to redevelop and/or reposition its assets,  
10 especially along the rail transit corridor, the State of Hawaii  
11 should consolidate ownership of the lands under existing public  
12 schools.

13 In addition, from an asset management standpoint, the  
14 department of education should also be given the authority and  
15 responsibility to own the real property on which their  
16 educational facilities are located. This will allow the  
17 department to maximize the value of its real estate assets as it  
18 seeks to redevelop and reposition public educational facilities  
19 in the future.

20 SECTION 2. (a) Notwithstanding any law to the contrary,  
21 the following lands, the fee simple interest in the following



1 parcels of land, with the existing improvements thereon, shall  
2 be conveyed by the city and county of Honolulu and department of  
3 land and natural resources, as appropriate, to the department of  
4 education:

5 (1) TMK 1-9-4-59-72, 1-9-4-59-73, 1-9-4-59-74 (August  
6 Ahrens Elementary);

7 (2) TMK 1-9-1-115-13 (Ewa Beach Elementary);

8 (3) TMK 1-9-1-17-2, 1-9-1-17-37 (Ewa Elementary);

9 (4) TMK 1-9-7-36-124 (Highlands Intermediate);

10 (5) TMK 1-9-1-1-2 (portion) (Ilima Intermediate);

11 (6) TMK 1-9-1-1-3 (Iroquois Point Elementary);

12 (7) TMK 1-9-1-1-22 (Kaimiloa Elementary);

13 (8) TMK 1-9-7-93-16 (portion) (Palisades Elementary; 5.117  
14 acres);

15 (9) TMK 1-9-7-24-2, 1-9-7-94-20 (Pearl City Elementary);

16 (10) TMK 1-9-7-36-122 (Pearl City Highlands Elementary);

17 (11) TMK 1-9-1-1-2 (portion) (Pohakea Elementary);

18 (12) TMK 1-9-4-10-40, 1-9-4-10-98, 1-9-4-29-1 (Waipahu  
19 Elementary);

20 (13) TMK 1-9-4-1-29 (portion), 1-9-4-1-30 (Waipahu  
21 Intermediate);



- 1 (14) TMK 1-1-1-10-33 (portion), 1-1-1-10-41 (Aliamanu  
2 Elementary);
- 3 (15) TMK 1-1-1-10-33 (portion) (Aliamanu Intermediate);
- 4 (16) TMK 1-9-8-29-2, 1-9-8-29-29 (Alvah Scott Elementary);
- 5 (17) TMK 1-1-1-34-42 (Moanalua Elementary);
- 6 (18) TMK 1-1-1-9-5 (portion) (Moanalua Intermediate);
- 7 (19) TMK 1-1-1-2-6 (Nimitz Elementary);
- 8 (20) TMK 1-1-1-10-27 (Pearl Harbor Elementary);
- 9 (21) TMK 1-9-8-8-7 (portion) (Waimalu Elementary);
- 10 (22) TMK 1-3-6-11-9 (portion) (Aina Haina Elementary);
- 11 (23) TMK 3-4-004-002, 3-4-004-006, 3-4-004-007, 3-4-004-  
12 049 (portion) (Anuenue Elementary);
- 13 (24) TMK 2-1-005-001 (portion), 2-1-005-002, 2-1-009-001,  
14 2-1-009-002, 2-1-009-003 (Central Intermediate);
- 15 (25) TMK 1-3-024-004, 1-3-024-005 (Dole Intermediate);
- 16 (26) TMK 1-3-001-017, 1-3-001-023, 1-3-001-058 (Fern  
17 Elementary);
- 18 (27) TMK 3-9-038-001 (portion) (Hahaione Elementary);
- 19 (28) TMK 2-8-029-010, 2-8-029-11 (Hokulani Elementary);
- 20 (29) TMK 2-4-012-001, 2-4-012-002 (Kaahumanu Elementary);
- 21 (30) TMK 1-3-024-001, 1-3-024-002 (Kaewai Elementary);



- 1 (31) TMK 3-5-011-027 (Kahala Elementary);
- 2 (32) TMK 3-2-059-002 (Kaimuki Intermediate);
- 3 (33) TMK 1-5-024-029, 1-5-024-040, 1-5-024-001, 1-5-025-002
- 4 (portion) (Kalakaua Intermediate);
- 5 (34) TMK 1-4-007-002 (portion) (Kalihi Elementary);
- 6 (35) TMK 1-5-025-002 (portion), 1-5-028-075 (Kalihi-Kai
- 7 Elementary);
- 8 (36) TMK 1-3-035-001 (portion), 1-3-036-015, 1-3-036-079
- 9 (Kalihi-Uka Elementary);
- 10 (37) TMK 3-9-005-061 (Kamiloiki Elementary);
- 11 (38) TMK 1-6-026-022 (Kapalama Elementary);
- 12 (39) TMK 1-7-023-041, 1-7-023-042 (Kauluwela Elementary);
- 13 (40) TMK 2-2-009-011, 2-2-009-013 (Kawananakoa
- 14 Intermediate);
- 15 (41) TMK 3-9-022-037 (Koko Head Elementary);
- 16 (42) TMK 2-7-017-029, 2-7-017-030, 2-7-027-010, 2-7-027-022
- 17 (Kuhio Elementary);
- 18 (43) TMK 1-7-042-001 (Lanakila Elementary);
- 19 (44) TMK 3-2-021-035 (Liholiho Elementary);



- 1 (45) TMK 1-6-008-016, 1-6-008-021, 1-6-008-022, 1-6-008-  
2 023, 1-6-008-024, 1-6-008-038, 1-6-008-058 (Likelike  
3 Elementary);
- 4 (46) TMK 1-3-039-005 (Linapuni Elementary);
- 5 (47) TMK 2-3-030-052, 2-3-030-055, 2-3-030-056 (Lunalilo  
6 Elementary);
- 7 (48) TMK 2-9-036-003 (portion) (Manoa Elementary);
- 8 (49) TMK 3-7-003-010 (portion), 3-7-003-067 (Niu Valley  
9 Intermediate);
- 10 (50) TMK 2-9-023-023 (Noelani Elementary);
- 11 (51) TMK 2-2-043-011 (Nuuanu Elementary);
- 12 (52) TMK 3-4-002-001, 3-4-002-002 (Palolo Elementary);
- 13 (53) TMK 2-2-016-020 (Pauoa Elementary);
- 14 (54) TMK 1-2-008-001 (Puuhale Elementary);
- 15 (55) TMK 3-2-045-003 (Waialae Elementary);
- 16 (56) TMK 3-1-025-001 (Waikiki Elementary);
- 17 (57) TMK 2-3-026-001 (Washington Intermediate); and
- 18 (58) TMK 3-5-017-012 (portion) (Wilson Elementary).
- 19 (b) Conveyance of the parcels of land listed in subsection
- 20 (a) shall be effective on .



1       SECTION 3. Lands conveyed under this Act shall contain a  
2 provision that shall allow the underlying fee simple interest in  
3 the property to revert back to the city and county of Honolulu  
4 or to the department of land and natural resources, as  
5 appropriate, if the land is not used for "public educational  
6 purposes". For the purpose of this Act, "public educational  
7 purposes" shall include any use of the property, including  
8 revenue generation, that would benefit the department of  
9 education's mission to provide public education to students in  
10 Hawaii.

11       SECTION 4. Chapter 302A, Hawaii Revised Statutes, is  
12 amended by adding a new section to be appropriately designated  
13 and to read as follows:

14       "§302A-   Public school real property, acquisition, use,  
15 and disposition of property. (a) The department may acquire or  
16 contract to acquire by grant or purchase any real, personal, or  
17 mixed property or any interest therein for its immediate or  
18 future use for public educational purposes, including lease  
19 revenues; and own, hold, improve, and rehabilitate any real,  
20 personal, or mixed property acquired, and sell, assign,





1 exchange, transfer, convey, lease, or otherwise dispose of, or  
2 encumber the same.

3 (b) The department may by itself, or in partnership with  
4 qualified persons, acquire, construct, reconstruct,  
5 rehabilitate, improve, alter, or repair any infrastructure or  
6 accessory facilities in connection with any project; and own,  
7 hold, sell, assign, transfer, convey, exchange, lease, or  
8 otherwise dispose of, or encumber any project.

9 (c) The department may lease or rent all or a portion of  
10 any real property acquired for public educational purposes and  
11 establish and revise the rents or charges therefor. The  
12 department may sell, exchange, transfer, assign, or pledge any  
13 property, real or personal, or any interest therein to any  
14 government entity.

15 (d) The department may insure or provide for the insurance  
16 of its property or operations against risks as it deems  
17 advisable.

18 (e) For purpose of this section:

19 "Land" or "property" includes vacant land or land with site  
20 improvements, whether partially or entirely finished in



1 accordance with governmental subdivision standards, or with  
2 complete dwellings.

3 "Public educational purposes" includes any use of the  
4 property, including revenue generation, that would benefit the  
5 department's mission to provide public education to students in  
6 the State.

7 "Real property" includes lands, land under water,  
8 structures, and any and all easements, franchises, and  
9 incorporeal hereditaments and every estate and right therein,  
10 legal and equitable, including terms for years and liens by way  
11 of judgment, mortgage, or otherwise."

12 SECTION 5. Section 171-2, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 **"§171-2 Definition of public lands.** "Public lands" means  
15 all lands or interest therein in the State classed as government  
16 or crown lands previous to August 15, 1895, or acquired or  
17 reserved by the government upon or subsequent to that date by  
18 purchase, exchange, escheat, or the exercise of the right of  
19 eminent domain, or in any other manner; including lands accreted  
20 after May 20, 2003, and not otherwise awarded, submerged lands,  
21 and lands beneath tidal waters that are suitable for



1 reclamation, together with reclaimed lands that have been given  
2 the status of public lands under this chapter, except:

3 (1) Lands designated in section 203 of the Hawaiian Homes  
4 Commission Act, 1920, as amended;

5 (2) Lands set aside pursuant to law for the use of the  
6 United States;

7 (3) Lands being used for roads and streets;

8 (4) Lands to which the United States relinquished the  
9 absolute fee and ownership under section 91 of the  
10 Hawaiian Organic Act prior to the admission of Hawaii  
11 as a state of the United States unless subsequently  
12 placed under the control of the board of land and  
13 natural resources and given the status of public lands  
14 in accordance with the state constitution, the  
15 Hawaiian Homes Commission Act, 1920, as amended, or  
16 other laws;

17 (5) Lands to which the University of Hawaii holds title;

18 (6) Lands to which the Hawaii housing finance and  
19 development corporation in its corporate capacity  
20 holds title;



- 1           (7) Lands to which the Hawaii community development  
2           authority in its corporate capacity holds title;
- 3           (8) Lands to which the department of agriculture holds  
4           title by way of foreclosure, voluntary surrender, or  
5           otherwise, to recover moneys loaned or to recover  
6           debts otherwise owed the department under chapter 167;
- 7           (9) Lands that are set aside by the governor to the Aloha  
8           Tower development corporation; lands leased to the  
9           Aloha Tower development corporation by any department  
10          or agency of the State; or lands to which the Aloha  
11          Tower development corporation holds title in its  
12          corporate capacity;
- 13          (10) Lands that are set aside by the governor to the  
14          agribusiness development corporation; lands leased to  
15          the agribusiness development corporation by any  
16          department or agency of the State; or lands to which  
17          the agribusiness development corporation in its  
18          corporate capacity holds title; ~~and~~
- 19          (11) Lands to which the high technology development  
20          corporation in its corporate capacity holds title; and



1       (12) Lands to which the department of education holds  
2           title;  
3       provided that, except as otherwise limited under federal law and  
4       except for state land used as an airport as defined in section  
5       262-1, public lands shall include the air rights over any  
6       portion of state land upon which a county mass transit project  
7       is developed after July 11, 2005."

8       SECTION 6. Statutory material to be repealed is bracketed  
9       and stricken. New statutory material is underscored.

10       SECTION 7. This Act shall take effect on July 1, 2018.

11  
INTRODUCED BY:

*Michelle Rodani*  
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# S.B. NO. 2379

**Report Title:**

Transfer of Land; Department of Education; Property; Title;  
Public Schools

**Description:**

Transfers certain public school lands from city and county of Honolulu and the department of land and natural resources, as applicable, to the department of education.

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