

Honolulu, Hawaii

FEB 14 2020

RE: S.B. No. 3103  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirtieth State Legislature  
Regular Session of 2020  
State of Hawaii

Sir:

Your Committee on Education, to which was referred S.B. No. 3103 entitled:

"A BILL FOR AN ACT RELATING TO A SCHOOL FACILITIES AGENCY,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Establish the School Facilities Agency to be responsible for all public school development, planning, and construction, related to capital improvement projects assigned by the Legislature, Governor, or Board of Education;
- (2) Transfer statutes pertaining to the Hawaii 3R's and 3T's programs to a new School Facilities Agency statutory subpart;
- (3) Place management of school impact fees with the agency; and
- (4) Appropriate funds.

Your Committee received testimony in support of this measure from the Office of the Governor; State of Hawaii Attorney General; Hawaii Institute for Public Affairs; Hawaii Community Foundation; Aloha United Way; Pacific Resource Partnership; He'e Coalition;



Chamber of Commerce Hawaii; and Department of Business, Economic Development, and Tourism. Your Committee received testimony in opposition to this measure from the State Procurement Office, United Public Workers, and Hawaii Government Employees Association. Your Committee received comments on this measure from the Department of Land and Natural Resources; Department of Budget and Finance; Office of Information Practices; Hawaii State Ethics Commission; Hawaii State Public Library System; Hawaii 3R's; Hawaii Society of Professional Journalists Hawaii Chapter; Civil Beat Law Center for the Public Interest; Maui Chamber of Commerce; American Council of Engineering Companies Hawaii; Painting Industry of Hawaii Labor Management Cooperation Trust Fund; Hawaii Tapers Market Recovery Trust Fund; Hawaii Glaziers, Architectural Metal Glassworkers Local Union 1889 AFL-CIO Stabilization Trust Fund; Carpet, Linoleum and Soft Tile Local Union 1926 Market Recovery Trust Fund; and Electrical Contractor's Association of Hawaii.

Your Committee finds that this measure requires the agency and Department of Education to determine what positions will be transferred to the agency and report this to the Legislature. Your Committee therefore finds that, until that time, the Legislature will not have the information necessary to make a determination as to how to address the concerns brought forward by labor.

This measure included references to repair and maintenance. Your Committee finds that these functions will remain with the Department of Education.

Your Committee offers as clarification that the gifts and disclosure requirements are intended to be for gifts and contributions to the School Facilities Special Fund and not agency employees, who will still fall under the current guidelines of the State ethics code.

Your Committee urges the Committee on Ways and Means, if it is interested in deleting the procurement code exemption, to consider granting a case-by-case exemption to the procurement code as noted in the testimony of the State Procurement Office.

Your Committee further notes that the creation of the agency does not affect the status of existing civil service positions.



Your Committee has amended this measure by:

- (1) Amending the powers of the agency to be able to hold title;
- (2) Reducing the size of the school facilities board from eleven to seven;
- (3) Inserting language prohibiting board members from having:
  - (A) Any financial interest in any entity that bids on projects authorized by the agency; or
  - (B) Bid on any project within the last twelve months prior to their appointment;
- (4) Making the School Facilities Board subject to the State sunshine law;
- (5) Removing language moving the 3Rs program to the agency;
- (6) Removing language moving the 3Ts program to the agency;
- (7) Deleting the State Educational Facilities Improvement Special Fund and moving any remaining balance into the newly created School Facilities Special Fund;
- (8) Allowing the agency to issue its own bond financing;
- (9) Allowing the agency to enter into public-private partnerships;
- (10) Requiring that any construction or renovation projects for school lands that are adjacent to or have Hawaii State Public Library facilities on them shall consult with the Hawaii State Public Library System prior to project approval;
- (11) Including the amendment suggested by the Department of Land and Natural Resources that would revert any lands not used for educational purposes back to the public



land trust under the management of the Department of Land and Natural Resources;

- (12) Including protections against bid-shopping in the State procurement code;
- (13) Including the qualification based selection process for professional service contracts as currently outlined in section 103-D;
- (14) Adopting the Hawaii State Ethics Commission recommendations to:
  - (A) Clarify that the gifts and disclosure requirements are intended to be for gifts and contributions to the special fund and not employees, who will still fall under current guidelines; and
  - (B) Clarifying the financial disclosure exemption by requiring that financial disclosures be confidential;
- (15) Removing all references to repair and maintenance; and
- (16) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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 S.B. No. 3103, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3103, S.D. 1, and be referred to your Committee on Ways and Means.

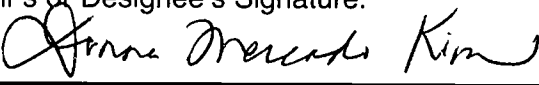
Respectfully submitted on  
behalf of the members of the  
Committee on Education,

  
MICHELLE N. KIDANI, Chair



The Senate  
Thirtieth Legislature  
State of Hawai'i

**Record of Votes  
Committee on Education  
EDU**

Bill / Resolution No.:* <b>SB 3103</b>	Committee Referral: <b>EDU, WAM</b>	Date: <i>12</i> <b>02/10/20</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KIDANI, Michelle N. (C)	/			
KIM, Donna Mercado (VC)	/			
DELA CRUZ, Donovan M.				/
KANUHA, Dru Mamo	/			
FEVELLA, Kurt	/			
<b>TOTAL</b>	<b>4</b>			<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes