

JAN 22 2021

A BILL FOR AN ACT

RELATING TO THE SCHOOL FACILITIES AGENCY.

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

1 SECTION 1. The purpose of this Act is to clearly describe
2 the powers and responsibilities of the school facilities agency
3 and its executive director, school facilities board, and
4 administrative staff by amending some of the provisions of Act
5 72, Session Laws of Hawaii 2020, which established the school
6 facilities agency.

7 SECTION 2. Act 72, Session Laws of Hawaii 2020, is amended
8 by amending section 1 to read as follows:

9 "SECTION 1. Chapter 302A, Hawaii Revised Statutes, is
10 amended by adding a new subpart to part VI to be appropriately
11 designated and to read as follows:

12 " . School Facilities Agency

13 §302A-A Definitions. As used in this subpart, ["agency"]
14 unless the context clearly requires otherwise:

15 "Agency" means the school facilities agency established by
16 section 302A-B.



1 "Project" means the development and construction of new
2 school facilities, including infrastructure; access and other
3 support for new school facilities; major renovation of school
4 facilities; public-private partnership projects; capital
5 improvement projects funded by the legislature for completion by
6 the agency; acquisition of real property, personal, or mixed
7 property for new school facilities; and planning, development
8 and leasing of public school land or facilities to private
9 partners pursuant to section 302A-1151.1.

10 "Facilities" include school classrooms, auditoriums,
11 libraries, office and maintenance buildings, gymnasiums, and
12 athletic fields.

13 **§302A-B School facilities agency; established.** (a) There
14 is established the school facilities agency, which shall be a
15 body corporate and a public instrumentality of the State, for
16 the purpose of implementing this subpart. The agency shall be
17 placed within the department for administrative purposes only.

18 (b) To enable the agency to perform its duties, the agency
19 shall be headed by an executive director exempt from chapters 76
20 and 89. The governor shall appoint [~~an~~] the executive director



1 ~~[to enable the agency to perform its duties. The appointment~~
2 ~~shall be:~~

3 ~~(1) Exempt from chapter 76 and the term limitation in~~
4 ~~section 26-34;~~

5 ~~(2) Subject to the advice and consent of the senate; and~~

6 ~~(3) For a term of six years.~~

7 ~~If a vacancy occurs during a term, the governor shall appoint an~~
8 ~~executive director for a six year term that shall begin on the~~
9 ~~first date of employment of the new executive director.] in the~~
10 manner prescribed in section 26-34, provided that neither the
11 number of terms, nor the number of consecutive years served
12 specified in section 26-34 shall apply to the executive
13 director, and the executive director's term shall be for six
14 years, which commences the day the senate advises and consents
15 to the executive director's nomination. If a vacancy occurs
16 during a term, the governor shall appoint an interim executive
17 director whose appointment shall expire if the senate does not
18 advise and consent to the nomination of an executive director at
19 the next regular session of the legislature after the vacancy
20 occurs. The salary of the executive director shall be set by
21 the school facilities agency board and the executive director



1 shall be included in any benefit program generally applicable to
2 the officers and employees of the State.

3 (c) The executive director shall:

4 (1) Serve as the agency's chief executive officer[+] and
5 chief procurement officer;

6 (2) Be responsible for carrying out the purposes of the
7 agency; and

8 (3) Serve on a full-time basis.

9 **§302A-C Powers; generally.** (a) Except as otherwise
10 limited by this chapter, the agency shall be responsible for all
11 public school development, planning, and construction related to
12 capital improvement projects assigned by the legislature,
13 governor, or board of education. [~~The agency shall act as its~~
14 ~~procurement officer.~~]

15 (b) Any award of a contract for construction shall be
16 subject to the requirements of section 103D-302; provided that
17 the agency shall give preference to construction bids submitted
18 by a contractor or subcontractor domiciled within the State.

19 Notwithstanding subsection (a), professional services contracts
20 for licensees under chapter 464 shall be procured in accordance
21 with section 103D-304.



- 1 (c) Except as otherwise limited by this chapter, the
2 agency may also:
- 3 (1) Have a seal and alter the same at its pleasure;
- 4 (2) Subject to subsection (b), make and execute contracts
5 and all other instruments necessary or convenient for
6 the exercise of its powers and functions under this
7 subpart;
- 8 (3) Make and alter bylaws for its organization and
9 internal management;
- 10 (4) Adopt rules pursuant to chapter 91 with respect to its
11 projects, operations, properties, and facilities[+],
12 including qualifications for persons and entities
13 wishing to enter into a public-private partnership
14 with the agency, as permitted in paragraph (7);
- 15 (5) Acquire[~~, reacquire,~~] or contract to acquire [~~or~~
16 ~~reacquire~~] by grant or purchase real, personal, or
17 mixed property or any interest therein; to [~~own, hold,~~
18 ~~hold title,~~] clear, improve, and rehabilitate and to
19 sell, assign, exchange, transfer, convey, lease, or
20 otherwise dispose of or encumber the same;



- 1 (6) ~~[Acquire or reacquire by condemnation real, personal,~~
2 ~~or mixed property or any interest therein for public~~
3 ~~facilities, including but not limited to streets,~~
4 ~~sidewalks, parks, schools, and other public~~
5 ~~improvements,]~~ Condemn private property for public use
6 pursuant to chapter 101;
- 7 (7) ~~[By itself, or in partnership]~~ Enter into partnerships
8 with qualified persons, including public-private
9 partnerships~~]~~ as defined in the agency's rules, to
10 acquire, ~~[reacquire,]~~ construct, reconstruct,
11 rehabilitate, improve, alter, or provide for the
12 construction, reconstruction, improvement, or
13 alteration of any project; ~~[own, hold, hold title,]~~
14 and sell, assign, transfer, convey, exchange, lease,
15 or otherwise dispose of or encumber any project~~]~~;
16 and in the case of the sale of any project, accept a
17 purchase money mortgage in connection therewith; ~~[and~~
18 ~~repurchase or otherwise acquire any project that the~~
19 ~~agency has theretofore sold or otherwise conveyed,~~
20 ~~transferred, or disposed of,]~~



- 1 ~~[(8) Arrange or contract for the planning, replanning,~~
2 ~~opening, grading, or closing of streets, roads,~~
3 ~~roadways, alleys, or other places, or for the~~
4 ~~furnishing of facilities or for the acquisition of~~
5 ~~property or property rights or for the furnishing of~~
6 ~~property or services in connection with a project;~~
- 7 ~~(9)]~~ (8) Grant options to purchase any project or to renew
8 any lease entered into by it in connection with any of
9 its projects, on terms and conditions as it deems
10 advisable;
- 11 ~~[(10)]~~ (9) Prepare or cause to be prepared plans,
12 specifications, designs, and estimates of costs for
13 the construction, reconstruction, rehabilitation,
14 improvement, or alteration of any project, and from
15 time to time to modify the plans, specifications,
16 designs, or estimates;
- 17 ~~[(11)]~~ ~~Provide advisory, consultative, training, and~~
18 ~~educational services, technical assistance, and advice~~
19 ~~to any person, partnership, or corporation, either~~
20 ~~public or private, to carry out the purposes of this~~
21 ~~subpart, and engage the services of consultants on a~~



1 ~~contractual basis for rendering professional and~~
2 ~~technical assistance and advice;~~

3 ~~[(12)]~~ (10) Procure insurance against any loss in connection
4 with its property and other assets and operations in
5 amounts and from insurers as it deems desirable;

6 ~~[(13)]~~ (11) ~~[Contract]~~ Apply for and accept gifts or grants
7 in any form from any public agency or from any other
8 source, including gifts or grants from private
9 individuals and private entities;

10 ~~[(14)]~~ (12) Issue bonds for the purpose of financing any
11 project; and

12 ~~[(15)]~~ (13) Do any and all things necessary to carry out its
13 purposes and exercise the powers given and granted in
14 this subpart.

15 (d) Prior to project approval, the agency shall consult
16 with the Hawaii state public library system regarding any
17 construction or renovation projects for school lands that are
18 adjacent to or have Hawaii state public library facilities on
19 them.



1 §302A-D School facilities board. (a) There is
2 established within the department for administrative purposes
3 only a school facilities board.

4 (b) The school facilities board shall consist of five
5 voting members. The [~~five voting~~] members shall:

6 (1) Be appointed by the governor pursuant to section
7 26-34;

8 (2) Have an interest in public school facilities; [~~and~~]

9 (3) Include one member [~~representing~~] actively or
10 previously engaged in the construction industry[-] for
11 at least five years; and

12 (4) Serve without compensation but may be reimbursed for
13 expenses, including travel expenses, necessary for the
14 performance of their duties.

15 (c) The school facilities board shall [~~advise the agency~~
16 ~~on policies relating to public school development, planning, and~~
17 ~~construction within the jurisdiction of the agency. The board~~
18 ~~shall~~] be responsible for:

19 (1) Advising the agency on [~~preferred strategies to~~
20 ~~complete construction projects of the agency;~~] any
21 matter related to the development and capital



1 improvement projects the agency is authorized and
2 responsible for initiating and completing under this
3 chapter, including preferred strategies to complete
4 those projects; and

5 (2) Evaluating the performance of the agency's executive
6 director on an annual basis.

7 (d) The school facilities board shall select a chairperson
8 by a majority vote of its voting members. A majority of the
9 voting members serving on the board shall constitute a quorum to
10 conduct business. The concurrence of the majority of the voting
11 members serving on the board shall be necessary to make any
12 action of the board valid.

13 (e) The school facilities board may form workgroups and
14 subcommittees [~~, including with~~] that include individuals who are
15 not school facilities board members, to:

16 (1) Obtain resource information from construction and
17 education professionals and other individuals as
18 deemed necessary by the school facilities board;

19 (2) Make recommendations to the school facilities board;
20 and



1 (3) Perform other functions as deemed necessary by the
2 school facilities board to fulfill its duties and
3 responsibilities.

4 Two or more school facilities board members, but less than
5 a quorum, may discuss matters relating to official school
6 facilities board business in the course of their participation
7 in a workgroup or subcommittee, and these discussions shall be a
8 permitted interaction as provided for in section 92-2.5;
9 provided that all other provisions of chapter 92 shall apply.

10 ~~[(f) The school facilities board may testify before the~~
11 ~~legislature on any matter related to its duties and~~
12 ~~responsibilities.~~

13 ~~(g)]~~ (f) Members of the school facilities board shall
14 serve without compensation but may be reimbursed for expenses,
15 including travel expenses, necessary for the performance of
16 their duties.

17 ~~[(h) No member of the school facilities board shall have~~
18 ~~any financial interest in any entity that bids on projects~~
19 ~~authorized by the agency.~~

20 ~~(i) No individual shall be appointed as a member of the~~
21 ~~school facilities board less than one year after the individual,~~



1 ~~or an entity having a financial interest owned by the~~
2 ~~individual, has submitted a bid on a project of the agency.]~~

3 **§302A-E Use of public lands; acquisition of state lands.**

4 (a) If state lands, other than public lands, under the control
5 and management of another department are required by the school
6 facilities agency for [~~its~~] purposes[~~7~~] of this chapter, the
7 department or agency having [~~the~~] control and management of
8 [~~those~~] the required lands, upon a request by the school
9 facilities agency and with the approval of the governor, [~~may~~]
10 shall convey title or lease those lands to the school facilities
11 agency upon terms and conditions as may be agreed to by the
12 parties; provided that [~~any lands for which~~] at the request of
13 the school facilities agency, the department [~~currently~~] shall
14 transfer any land to which it holds title [~~that are agreed to be~~
15 ~~transferred shall be transferred~~] to the agency [~~no later than~~
16 ~~January 1, 2021~~].

17 (b) If public land set-aside to a department or agency
18 pursuant to section 171-11, are required by the school
19 facilities agency for purposes of this chapter, the school
20 facilities agency shall submit a request to the governor to



1 withdraw the set-aside and to re-set-aside the land to the
2 agency pursuant to section 171-11.

3 (c) Notwithstanding the foregoing and section 302A-C(c),
4 no ~~[public]~~ lands shall be conveyed or leased to the agency as
5 provided in this section if the conveyance or lease would impair
6 any covenant between the State or any county or any department
7 or board thereof and the holders of bonds issued by the State or
8 county, department, or board.

9 ~~[-e)]~~ (d) ~~[If state]~~ When public lands [held by]
10 transferred to the agency are no longer needed for school
11 facilities purposes, title to those lands shall be ~~[returned to~~
12 ~~the public trust administered by]~~ transferred to the department
13 of land and natural resources~~[-]~~ and the lands shall be
14 reclassified as public lands.

15 **§302A-F School facilities special fund.** (a) There is
16 established within the state treasury a special fund to be known
17 as the school facilities special fund into which shall be
18 deposited:

19 (1) All moneys the agency receives, including funds
20 appropriated or transferred by the legislature for
21 ~~[any public school development, planning, or~~



- 1 ~~construction related to a capital improvement~~
2 ~~project,] deposit into the special fund;~~
- 3 (2) [Revenues] Funds collected pursuant to section 302A-
4 1608(a); provided that these moneys shall be deposited
5 into the appropriate subaccount established pursuant
6 to subsection (b);
- 7 (3) Any ~~other~~ moneys received by the department in the
8 form of a grant, gift, endowment, or donation for ~~[any~~
9 ~~public school]~~ the development, planning, or
10 construction [related to a capital improvement
11 project, including funds transferred to the special
12 fund by the agency pursuant to subsection (e),] of new
13 school facilities or major renovations of school
14 facilities; and
- 15 (4) ~~[All moneys allocated to the special fund by the~~
16 ~~governor or board for a project,] All other moneys~~
17 received by the agency and not deposited into a trust
18 funds, including unrestricted grants, gifts and
19 donations; proceeds from sales of property, lease,
20 rent, payments; and receipts, interest, refunds, and
21 other payment of receipts.



1 ~~[(5) Any other appropriation by the legislature to the~~
2 ~~special fund; and~~

3 ~~(6) Income and capital gains earned by the special fund.]~~

4 (b) The agency shall establish and appropriately name
5 subaccounts within the school facilities special fund to accept
6 deposits of revenues from school impact fees that are required
7 to be expended within a specific school impact district pursuant
8 to 302A-1608(a) or restricted ~~[to another]~~ for a ~~[specifie]~~
9 specified purpose pursuant to part V, subpart B of this chapter.

10 (c) The school facilities special fund shall be
11 administered by the agency and used to fund any school
12 development, planning, or construction project within the
13 jurisdiction of the agency.

14 (d) Subject to chapter 84, but any law to the contrary
15 notwithstanding, the governor may authorize expenditures from
16 the school facilities special fund of any donation, grant,
17 bequest, and devise of money from any private institution,
18 person, firm, or corporation for the purposes of funding the
19 salaries of the executive director and any officers, agents, and
20 employees of the agency. If all or any portion of any salary of
21 the executive director or any officer, agent, or employee of the



1 agency is funded pursuant to this subsection, the agency shall
2 submit a report to the legislature detailing the use of any
3 funds authorized under this subsection no later than twenty days
4 prior to the convening of the next regular session following the
5 expenditure authorization.

6 ~~[(e) The agency may transfer any other unencumbered or~~
7 ~~unrestricted moneys received in the form of grants and donations~~
8 ~~for school development, planning, or construction to the school~~
9 ~~facilities special fund.~~

10 ~~[(f)]~~ (e) The agency shall submit to the director of
11 finance a report that shall be prepared in the form prescribed
12 by the director of finance and shall identify the total amount
13 of funds in the school facilities special fund that will carry
14 over to the next fiscal year. The agency shall submit the
15 report to the director of finance within ninety days of the
16 close of each fiscal year and a copy of the information
17 contained in the report to the director of finance shall be
18 included within the agency's report to the legislature pursuant
19 to section 302A-G.

20 ~~[(g)]~~ (f) Within the school facilities special fund there
21 shall be established accounts and subaccounts as may be



1 necessary from time to time in order to ensure compliance with
2 the Internal Revenue Code, as amended.

3 **§302A-G Annual report.** At least twenty days prior to the
4 convening of each regular session, the agency shall submit to
5 the governor, board of education, and legislature, a complete
6 and detailed report of its activities during the prior fiscal
7 year.""

8 SECTION 3. Act 72, Session Laws of Hawaii 2020, is amended
9 by amending section 10 to read as follows:

10 "SECTION 10. The school facilities agency shall
11 collaborate with the department of education and submit a report
12 to the legislature, no later than twenty days prior to the
13 convening of the regular session of [~~2021~~] 2022, identifying
14 positions of the department of education that should be
15 transferred to the school facilities agency established by
16 section 1 of this Act, including positions responsible for
17 public school development, planning, and construction related to
18 capital improvement projects, along with proposed legislation to
19 further implement the transfer of positions and related records
20 and equipment to effectuate the purpose of this Act."



1 SECTION 4. Section 76-16, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The civil service to which this chapter applies shall
4 comprise all positions in the State now existing or hereafter
5 established and embrace all personal services performed for the
6 State, except the following:

7 (1) Commissioned and enlisted personnel of the Hawaii
8 National Guard as such, and positions in the Hawaii
9 National Guard that are required by state or federal
10 laws or regulations or orders of the National Guard to
11 be filled from those commissioned or enlisted
12 personnel;

13 (2) Positions filled by persons employed by contract where
14 the director of human resources development has
15 certified that the service is special or unique or is
16 essential to the public interest and that, because of
17 circumstances surrounding its fulfillment, personnel
18 to perform the service cannot be obtained through
19 normal civil service recruitment procedures. Any such
20 contract may be for any period not exceeding one year;



- 1 (3) Positions that must be filled without delay to comply
2 with a court order or decree if the director
3 determines that recruitment through normal recruitment
4 civil service procedures would result in delay or
5 noncompliance, such as the Felix-Cayetano consent
6 decree;
- 7 (4) Positions filled by the legislature or by either house
8 or any committee thereof;
- 9 (5) Employees in the office of the governor and office of
10 the lieutenant governor, and household employees at
11 Washington Place;
- 12 (6) Positions filled by popular vote;
- 13 (7) Department heads, officers, and members of any board,
14 commission, or other state agency whose appointments
15 are made by the governor or are required by law to be
16 confirmed by the senate;
- 17 (8) Judges, referees, receivers, masters, jurors, notaries
18 public, land court examiners, court commissioners, and
19 attorneys appointed by a state court for a special
20 temporary service;



1 (9) One bailiff for the chief justice of the supreme court
2 who shall have the powers and duties of a court
3 officer and bailiff under section 606-14; one
4 secretary or clerk for each justice of the supreme
5 court, each judge of the intermediate appellate court,
6 and each judge of the circuit court; one secretary for
7 the judicial council; one deputy administrative
8 director of the courts; three law clerks for the chief
9 justice of the supreme court, two law clerks for each
10 associate justice of the supreme court and each judge
11 of the intermediate appellate court, one law clerk for
12 each judge of the circuit court, two additional law
13 clerks for the civil administrative judge of the
14 circuit court of the first circuit, two additional law
15 clerks for the criminal administrative judge of the
16 circuit court of the first circuit, one additional law
17 clerk for the senior judge of the family court of the
18 first circuit, two additional law clerks for the civil
19 motions judge of the circuit court of the first
20 circuit, two additional law clerks for the criminal
21 motions judge of the circuit court of the first



1 circuit, and two law clerks for the administrative
2 judge of the district court of the first circuit; and
3 one private secretary for the administrative director
4 of the courts, the deputy administrative director of
5 the courts, each department head, each deputy or first
6 assistant, and each additional deputy, or assistant
7 deputy, or assistant defined in paragraph (16);

8 (10) First deputy and deputy attorneys general, the
9 administrative services manager of the department of
10 the attorney general, one secretary for the
11 administrative services manager, an administrator and
12 any support staff for the criminal and juvenile
13 justice resources coordination functions, and law
14 clerks;

15 (11) (A) Teachers, principals, vice-principals, complex
16 area superintendents, deputy and assistant
17 superintendents, other certificated personnel,
18 not more than twenty noncertificated
19 administrative, professional, and technical
20 personnel not engaged in instructional work;



- 1 (B) Effective July 1, 2003, teaching assistants,
2 educational assistants, bilingual/bicultural
3 school-home assistants, school psychologists,
4 psychological examiners, speech pathologists,
5 athletic health care trainers, alternative school
6 work study assistants, alternative school
7 educational/supportive services specialists,
8 alternative school project coordinators, and
9 communications aides in the department of
10 education;
- 11 (C) The special assistant to the state librarian and
12 one secretary for the special assistant to the
13 state librarian; and
- 14 (D) Members of the faculty of the University of
15 Hawaii, including research workers, extension
16 agents, personnel engaged in instructional work,
17 and administrative, professional, and technical
18 personnel of the university;
- 19 (12) Employees engaged in special, research, or
20 demonstration projects approved by the governor;



- 1 (13) (A) Positions filled by inmates, patients of state
2 institutions, persons with severe physical or
3 mental disabilities participating in the work
4 experience training programs;
- 5 (B) Positions filled with students in accordance with
6 guidelines for established state employment
7 programs; and
- 8 (C) Positions that provide work experience training
9 or temporary public service employment that are
10 filled by persons entering the workforce or
11 persons transitioning into other careers under
12 programs such as the federal Workforce Investment
13 Act of 1998, as amended, or the Senior Community
14 Service Employment Program of the Employment and
15 Training Administration of the United States
16 Department of Labor, or under other similar state
17 programs;
- 18 (14) A custodian or guide at Iolani Palace, the Royal
19 Mausoleum, and Hulihee Palace;
- 20 (15) Positions filled by persons employed on a fee,
21 contract, or piecework basis, who may lawfully perform



1 their duties concurrently with their private business
2 or profession or other private employment and whose
3 duties require only a portion of their time, if it is
4 impracticable to ascertain or anticipate the portion
5 of time to be devoted to the service of the State;
6 (16) Positions of first deputies or first assistants of
7 each department head appointed under or in the manner
8 provided in section 6, article V, of the Hawaii State
9 Constitution; three additional deputies or assistants
10 either in charge of the highways, harbors, and
11 airports divisions or other functions within the
12 department of transportation as may be assigned by the
13 director of transportation, with the approval of the
14 governor; four additional deputies in the department
15 of health, each in charge of one of the following:
16 behavioral health, environmental health, hospitals,
17 and health resources administration, including other
18 functions within the department as may be assigned by
19 the director of health, with the approval of the
20 governor; an administrative assistant to the state



1 librarian; and an administrative assistant to the
2 superintendent of education;

3 (17) Positions specifically exempted from this part by any
4 other law; provided that:

5 (A) Any exemption created after July 1, 2014, shall
6 expire three years after its enactment unless
7 affirmatively extended by an act of the
8 legislature; and

9 (B) All of the positions defined by paragraph (9)
10 shall be included in the position classification
11 plan;

12 (18) Positions in the state foster grandparent program and
13 positions for temporary employment of senior citizens
14 in occupations in which there is a severe personnel
15 shortage or in special projects;

16 (19) Household employees at the official residence of the
17 president of the University of Hawaii;

18 (20) Employees in the department of education engaged in
19 the supervision of students during meal periods in the
20 distribution, collection, and counting of meal



- 1 tickets, and in the cleaning of classrooms after
2 school hours on a less than half-time basis;
- 3 (21) Employees hired under the tenant hire program of the
4 Hawaii public housing authority; provided that not
5 more than twenty-six per cent of the authority's
6 workforce in any housing project maintained or
7 operated by the authority shall be hired under the
8 tenant hire program;
- 9 (22) Positions of the federally funded expanded food and
10 nutrition program of the University of Hawaii that
11 require the hiring of nutrition program assistants who
12 live in the areas they serve;
- 13 (23) Positions filled by persons with severe disabilities
14 who are certified by the state vocational
15 rehabilitation office that they are able to perform
16 safely the duties of the positions;
- 17 (24) The sheriff;
- 18 (25) A gender and other fairness coordinator hired by the
19 judiciary;
- 20 (26) Positions in the Hawaii National Guard youth and adult
21 education programs;



1 (27) In the state energy office in the department of
2 business, economic development, and tourism, all
3 energy program managers, energy program specialists,
4 energy program assistants, and energy analysts;

5 (28) Administrative appeals hearing officers in the
6 department of human services;

7 (29) In the Med-QUEST division of the department of human
8 services, the division administrator, finance officer,
9 health care services branch administrator, medical
10 director, and clinical standards administrator;

11 (30) In the director's office of the department of human
12 services, the enterprise officer, information security
13 and privacy compliance officer, security and privacy
14 compliance engineer, and security and privacy
15 compliance analyst; ~~and~~

16 [+](31) [+]The Alzheimer's disease and related dementia services
17 coordinator in the executive office on aging[-]; and

18 (32) The positions of the executive director and the full
19 time staff of the school facilities agency.

20 The director shall determine the applicability of this
21 section to specific positions.



1 Nothing in this section shall be deemed to affect the civil
2 service status of any incumbent as it existed on July 1, 1955."

3 SECTION 5. Section 171-64.7, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) This section applies to all lands or interest therein
6 owned or under the control of state departments and agencies
7 classed as government or crown lands previous to August 15,
8 1895, or acquired or reserved by the government upon or
9 subsequent to that date by purchase, exchange, escheat, or the
10 exercise of the right of eminent domain, or any other manner,
11 including accreted lands not otherwise awarded, submerged lands,
12 and lands beneath tidal waters that are suitable for
13 reclamation, together with reclaimed lands that have been given
14 the status of public lands under this chapter, including:

15 (1) Land set aside pursuant to law for the use of the
16 United States;

17 (2) Land to which the United States relinquished the
18 absolute fee and ownership under section 91 of the
19 Organic Act prior to the admission of Hawaii as a
20 state of the United States;

21 (3) Land to which the University of Hawaii holds title;



- 1 (4) Land to which the Hawaii housing finance and
2 development corporation in its corporate capacity
3 holds title;
- 4 (5) Land to which the department of agriculture holds
5 title by way of foreclosure, voluntary surrender, or
6 otherwise, to recover moneys loaned or to recover
7 debts otherwise owed the department under chapter 167;
- 8 (6) Land that is set aside by the governor to the Aloha
9 Tower development corporation; or land to which the
10 Aloha Tower development corporation holds title in its
11 corporate capacity;
- 12 (7) Land that is set aside by the governor to the
13 agribusiness development corporation; or land to which
14 the agribusiness development corporation in its
15 corporate capacity holds title;
- 16 (8) Land to which the Hawaii technology development
17 corporation in its corporate capacity holds title;
- 18 (9) Land to which the department of education holds title;
19 [and]
- 20 (10) Land to which the Hawaii public housing authority in
21 its corporate capacity holds title[-]; and



1 (11) Land to which the school facilities agency holds
2 title."

3 SECTION 6. Section 302A-1602, Hawaii Revised Statutes, is
4 amended by amending the definition of "school facilities" to
5 read as follows:

6 "School facilities" means the facilities owned or operated
7 by the school facilities agency[~~7~~] or the department, or the
8 facilities included in the school facilities agency or the
9 department of education capital budget or capital facilities
10 plan."

11 SECTION 7. Section 302A-1603, Hawaii Revised Statutes, is
12 amended by amending subsection (b) to read as follows:

13 "(b) The following shall be exempt from this section:

- 14 (1) Any form of housing permanently excluding school-aged
15 children, with the necessary covenants or declarations
16 of restrictions recorded on the property;
- 17 (2) Any form of housing that is or will be paying the
18 transient accommodations tax under chapter 237D;
- 19 (3) All nonresidential development; and
- 20 (4) Any development with an executed education
21 contribution agreement or other like document with the



1 school facilities agency or the department of
2 education for the contribution of school sites or
3 payment of fees for school land or school
4 construction."

5 SECTION 8. Act 210, Session Laws of Hawaii 2018, is
6 amended by amending part II by substituting "school facilities
7 agency" for every reference to the "department of education" to
8 require the city and county of Honolulu to convey fee simple
9 interest in the properties listed therein not previously
10 conveyed to the department of education to the school facilities
11 agency instead.

12 SECTION 9. The department of education shall transfer the
13 total fund balance in the state educational facilities
14 improvement fund as of September 15, 2020 to the school
15 facilities special fund no later than days of the
16 effective date of this Act.

17 SECTION 10. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19



1 SECTION 11. This Act shall take effect upon its approval.

2

INTRODUCED BY: *Dr. Michelle N. Adams*



S.B. NO. 800

Report Title:

School Facilities Agency; Department of Education

Description:

Describes the powers and responsibilities of the school facilities agency by amending Act 72, Session Laws of Hawaii 2020. Transfers the total fund balance in the state educational improvement fund to the school facilities special fund by a certain date.

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

