
A BILL FOR AN ACT

RELATING TO THE SCHOOL FACILITIES AGENCY.

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

1 PART I

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

8 PART II

9 SECTION 2. Act 72, Session Laws of Hawaii 2020, is amended
10 as follows:

11 1. By amending section 1 to read:

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

15 " . School Facilities Agency

16 §302A-A Definitions. As used in this subpart, ["agency"]
17 unless the context clearly requires otherwise:



1 "Agency" means the school facilities agency established by
2 section 302A-B.

3 "Facilities" includes school classrooms, auditoriums,
4 libraries, office and maintenance buildings, gymnasiums, and
5 athletic fields.

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

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

20 (b) To enable the agency to perform its duties, the agency
21 shall be headed by an executive director exempt from chapters 76



1 and 89. The governor shall appoint [~~an~~] the executive director
2 [~~to enable the agency to perform its duties. The appointment~~
3 ~~shall be:~~

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

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

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

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



1 the school facilities agency board and the executive director
2 shall be included in any benefit program generally applicable to
3 the officers and employees of the State.

4 (c) The executive director shall:

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

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

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

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

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

20 Notwithstanding subsection (a), professional services contracts



1 for licensees under chapter 464 shall be procured in accordance
2 with section 103D-304.

3 (c) Except as otherwise limited by this chapter, the
4 agency may also:

5 (1) Have a seal and alter the same at its pleasure;

6 (2) Subject to subsection (b), make and execute contracts
7 and all other instruments necessary or convenient for
8 the exercise of its powers and functions under this
9 subpart;

10 (3) Make and alter bylaws for its organization and
11 internal management;

12 (4) Adopt rules pursuant to chapter 91 with respect to its
13 projects, operations, properties, and facilities[~~7~~],
14 including qualifications for persons and entities
15 wishing to enter into a public-private partnership
16 with the agency, as permitted in paragraph (7);

17 (5) Acquire[~~, reacquire,~~] or contract to acquire [~~or~~
18 ~~reacquire~~] by grant or purchase real, personal, or
19 mixed property or any interest therein; to [~~own, hold,~~
20 ~~hold title,~~] clear, improve, and rehabilitate and to



1 sell, assign, exchange, transfer, convey, lease, or
2 otherwise dispose of or encumber the same;

3 (6) ~~[Acquire or reacquire by condemnation real, personal,~~
4 ~~or mixed property or any interest therein for public~~
5 ~~facilities, including but not limited to streets,~~
6 ~~sidewalks, parks, schools, and other public~~
7 ~~improvements,]~~ Condemn private property for public use
8 pursuant to chapter 101;

9 (7) ~~[By itself, or in partnership]~~ Enter into partnerships
10 with qualified persons, including public-private
11 partnerships ~~[,]~~ as defined in the agency's rules, to
12 acquire, ~~[reacquire,]~~ construct, reconstruct,
13 rehabilitate, improve, alter, or provide for the
14 construction, reconstruction, improvement, or
15 alteration of any project; ~~[own, hold, hold title,]~~
16 and sell, assign, transfer, convey, exchange, lease,
17 or otherwise dispose of or encumber any project ~~[,]~~;
18 and in the case of the sale of any project, accept a
19 purchase money mortgage in connection therewith; ~~[and~~
20 ~~repurchase or otherwise acquire any project that the~~



1 ~~agency has theretofore sold or otherwise conveyed,~~
2 ~~transferred, or disposed of;~~

3 ~~(8) Arrange or contract for the planning, replanning,~~
4 ~~opening, grading, or closing of streets, roads,~~
5 ~~roadways, alleys, or other places, or for the~~
6 ~~furnishing of facilities or for the acquisition of~~
7 ~~property or property rights or for the furnishing of~~
8 ~~property or services in connection with a project;~~

9 ~~(9)]~~ (8) Grant options to purchase any project or to renew
10 any lease entered into by it in connection with any of
11 its projects, on terms and conditions as it deems
12 advisable;

13 ~~[(10)]~~ (9) Prepare or cause to be prepared plans,
14 specifications, designs, and estimates of costs for
15 the construction, reconstruction, rehabilitation,
16 improvement, or alteration of any project, and from
17 time to time to modify the plans, specifications,
18 designs, or estimates;

19 ~~[(11)]~~ Provide advisory, consultative, training, and
20 educational services, technical assistance, and advice
21 to any person, partnership, or corporation, either



1 ~~public or private, to carry out the purposes of this~~
2 ~~subpart, and engage the services of consultants on a~~
3 ~~contractual basis for rendering professional and~~
4 ~~technical assistance and advice;~~

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

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

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

14 (13) Appoint or retain by contract one or more attorneys
15 who are independent of the attorney general to provide
16 legal services solely in cases of negotiations in
17 which the attorney general lacks the sufficient
18 expertise; provided that the independent attorney
19 shall consult and work in conjunction with the
20 designated deputy attorney general assigned;



1 (14) Use the department of human resources development to
2 recruit, hire, and retain exempt employees,
3 architects, engineers, existing civil service
4 positions, and other technical positions for the
5 development, planning, and construction related to
6 capital improvement projects; and

7 (15) Do any and all things necessary to carry out its
8 purposes and exercise the powers given and granted in
9 this subpart.

10 (d) Prior to project approval, the agency shall consult
11 with the Hawaii state public library system regarding any
12 construction or renovation projects for school lands that are
13 adjacent to or have Hawaii state public library facilities on
14 them.

15 **§302A-D School facilities board.** (a) There is
16 established within the department for administrative purposes
17 only a school facilities board.

18 (b) The school facilities board shall consist of five
19 voting members. The [~~five-voting~~] members shall:

20 (1) Be appointed by the governor pursuant to section
21 26-34;



- 1 (2) Have an interest in public school facilities; [~~and~~]
- 2 (3) Include one member [~~representing~~] actively or
- 3 previously engaged in the construction industry[~~-~~] for
- 4 at least five years; and
- 5 (4) Serve without compensation but may be reimbursed for
- 6 expenses, including travel expenses, necessary for the
- 7 performance of their duties.

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

- 12 (1) Advising the agency on [~~preferred strategies to~~
13 ~~complete construction projects of the agency;~~] any
- 14 matter related to the development and capital
- 15 improvement projects the agency is authorized and
- 16 responsible for initiating and completing under this
- 17 chapter, including preferred strategies to complete
- 18 those projects; and
- 19 (2) Evaluating the performance of the agency's executive
- 20 director on an annual basis.



1 (d) The school facilities board shall select a chairperson
2 by a majority vote of its voting members. A majority of the
3 voting members serving on the board shall constitute a quorum to
4 conduct business. The concurrence of the majority of the voting
5 members serving on the board shall be necessary to make any
6 action of the board valid.

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

- 10 (1) Obtain resource information from construction and
11 education professionals and other individuals as
12 deemed necessary by the school facilities board;
- 13 (2) Make recommendations to the school facilities board;
14 and
- 15 (3) Perform other functions as deemed necessary by the
16 school facilities board to fulfill its duties and
17 responsibilities.

18 Two or more school facilities board members, but less than
19 a quorum, may discuss matters relating to official school
20 facilities board business in the course of their participation
21 in a workgroup or subcommittee, and these discussions shall be a



1 permitted interaction as provided for in section 92-2.5;
2 provided that all other provisions of chapter 92 shall apply.

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

6 ~~(g)]~~ (f) Members of the school facilities board shall
7 serve without compensation but may be reimbursed for expenses,
8 including travel expenses, necessary for the performance of
9 their duties.

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

13 ~~(i) No individual shall be appointed as a member of the~~
14 ~~school facilities board less than one year after the individual,~~
15 ~~or an entity having a financial interest owned by the~~
16 ~~individual, has submitted a bid on a project of the agency.]~~

17 **§302A-E Use of public lands; acquisition of state lands.**

18 (a) If state lands, other than public lands, under the control
19 and management of another department are required by the school
20 facilities agency for [its] purposes[~~7~~] of this chapter, the
21 department or agency having [the] control and management of



1 ~~[these]~~ the required lands, upon a request by the school
2 facilities agency and with the approval of the governor, ~~[may]~~
3 shall convey title or lease those lands to the school facilities
4 agency upon terms and conditions as may be agreed to by the
5 parties; provided that ~~[any lands for which]~~ at the request of
6 the school facilities agency, the department ~~[currently]~~ shall
7 transfer any land to which it holds title ~~[that are agreed to be~~
8 ~~transferred shall be transferred]~~ to the agency ~~[no later than~~
9 ~~January 1, 2021]~~ .

10 (b) If public land set-aside to a department or agency
11 pursuant to section 171-11, are required by the school
12 facilities agency for purposes of this chapter, the school
13 facilities agency shall submit a request to the governor to
14 withdraw the set-aside and to re-set-aside the land to the
15 agency pursuant to section 171-11.

16 ~~[-(b)]~~ (c) Notwithstanding the foregoing and section
17 302A-C(c), no ~~[public]~~ lands shall be conveyed or leased to the
18 agency as provided in this section if the conveyance or lease
19 would impair any covenant between the State or any county or any
20 department or board thereof and the holders of bonds issued by
21 the State or county, department, or board.



1 ~~[-e-]~~ (d) ~~[If state]~~ When public lands ~~[held by]~~
2 transferred to the agency are no longer needed for school
3 facilities purposes, title to those lands shall be ~~[returned to~~
4 ~~the public trust administered by]~~ transferred to the department
5 of land and natural resources ~~[-]~~ and the lands shall be
6 reclassified as public lands.

7 **§302A-F School facilities special fund.** (a) There is
8 established within the state treasury a special fund to be known
9 as the school facilities special fund into which shall be
10 deposited:

- 11 (1) All moneys the agency receives, including funds
12 appropriated or transferred by the legislature for
13 ~~[any public school development, planning, or~~
14 ~~construction related to a capital improvement~~
15 ~~project,]~~ deposit into the special fund;
- 16 (2) ~~[Revenues]~~ Funds collected pursuant to section
17 302A-1608(a); provided that these moneys shall be
18 deposited into the appropriate subaccount established
19 pursuant to subsection (b);
- 20 (3) Any ~~[other]~~ moneys received by the department in the
21 form of a grant, gift, endowment, or donation for ~~[any~~



1 ~~public school]~~ the development, planning, or
2 construction ~~[related to a capital improvement~~
3 ~~project, including funds transferred to the special~~
4 ~~fund by the agency pursuant to subsection (e);]~~ of new
5 school facilities or major renovations of school
6 facilities; and

7 (4) ~~[All moneys allocated to the special fund by the~~
8 ~~governor or board for a project;]~~ All other moneys
9 received by the agency and not deposited into a trust
10 funds, including unrestricted grants, gifts and
11 donations; proceeds from sales of property, lease,
12 rent, payments; and receipts, interest, refunds, and
13 other payment of receipts.

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

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

17 (b) The agency shall establish and appropriately name
18 subaccounts within the school facilities special fund to accept
19 deposits of revenues from school impact fees that are required
20 to be expended within a specific school impact district pursuant



1 to 302A-1608(a) or restricted [~~to another~~] for a [~~specifie~~]
2 specified purpose pursuant to part V, subpart B of this chapter.

3 (c) The school facilities special fund shall be
4 administered by the agency and used to fund any school
5 development, planning, or construction project within the
6 jurisdiction of the agency.

7 (d) Subject to chapter 84, but any law to the contrary
8 notwithstanding, the governor may authorize expenditures from
9 the school facilities special fund of any donation, grant,
10 bequest, and devise of money from any private institution,
11 person, firm, or corporation for the purposes of funding the
12 salaries of the executive director and any officers, agents, and
13 employees of the agency. If all or any portion of any salary of
14 the executive director or any officer, agent, or employee of the
15 agency is funded pursuant to this subsection, the agency shall
16 submit a report to the legislature detailing the use of any
17 funds authorized under this subsection no later than twenty days
18 prior to the convening of the next regular session following the
19 expenditure authorization.

20 [~~(e) The agency may transfer any other unencumbered or~~
21 ~~unrestricted moneys received in the form of grants and donations~~



1 ~~for school development, planning, or construction to the school~~
2 ~~facilities special fund.~~

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

13 ~~(g)]~~ (f) Within the school facilities special fund there
14 shall be established accounts and subaccounts as may be
15 necessary from time to time in order to ensure compliance with
16 the Internal Revenue Code, as amended.

17 **§302A-G Annual report.** At least twenty days prior to the
18 convening of each regular session, the agency shall submit to
19 the governor, board of education, and legislature, a complete
20 and detailed report of its activities during the prior fiscal
21 year. ""



1 SECTION 4. Section 28-8.3, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) No department of the State other than the attorney
4 general may employ or retain any attorney, by contract or
5 otherwise, for the purpose of representing the State or the
6 department in any litigation, rendering legal counsel to the
7 department, or drafting legal documents for the department;
8 provided that the foregoing provision shall not apply to the
9 employment or retention of attorneys:

10 (1) By the public utilities commission, the labor and
11 industrial relations appeals board, and the Hawaii
12 labor relations board;

13 (2) By any court or judicial or legislative office of the
14 State; provided that if the attorney general is
15 requested to provide representation to a court or
16 judicial office by the chief justice or the chief
17 justice's designee, or to a legislative office by the
18 speaker of the house of representatives and the
19 president of the senate jointly, and the attorney
20 general declines to provide such representation on the
21 grounds of conflict of interest, the attorney general



- 1 shall retain an attorney for the court, judicial, or
2 legislative office, subject to approval by the court,
3 judicial, or legislative office;
- 4 (3) By the legislative reference bureau;
- 5 (4) By any compilation commission that may be constituted
6 from time to time;
- 7 (5) By the real estate commission for any action involving
8 the real estate recovery fund;
- 9 (6) By the contractors license board for any action
10 involving the contractors recovery fund;
- 11 (7) By the office of Hawaiian affairs;
- 12 (8) By the department of commerce and consumer affairs for
13 the enforcement of violations of chapters 480 and
14 485A;
- 15 (9) As grand jury counsel;
- 16 (10) By the Hawaii health systems corporation, or its
17 regional system boards, or any of their facilities;
- 18 (11) By the auditor;
- 19 (12) By the office of ombudsman;
- 20 (13) By the insurance division;
- 21 (14) By the University of Hawaii;



- 1 (15) By the Kahoolawe island reserve commission;
- 2 (16) By the division of consumer advocacy;
- 3 (17) By the office of elections;
- 4 (18) By the campaign spending commission;
- 5 (19) By the Hawaii tourism authority, as provided in
- 6 section 201B-2.5;
- 7 (20) By the division of financial institutions;
- 8 (21) By the office of information practices; [~~or~~]
- 9 (22) By the school facilities agency; or
- 10 [~~(22)~~] (23) By a department, if the attorney general, for
- 11 reasons deemed by the attorney general to be good and
- 12 sufficient, declines to employ or retain an attorney
- 13 for a department; provided that the governor waives
- 14 the provision of this section."

15 SECTION 5. Section 76-16, Hawaii Revised Statutes, is

16 amended by amending subsection (b) to read as follows:

17 "(b) The civil service to which this chapter applies shall

18 comprise all positions in the State now existing or hereafter

19 established and embrace all personal services performed for the

20 State, except the following:



- 1 (1) Commissioned and enlisted personnel of the Hawaii
2 National Guard as such, and positions in the Hawaii
3 National Guard that are required by state or federal
4 laws or regulations or orders of the National Guard to
5 be filled from those commissioned or enlisted
6 personnel;
- 7 (2) Positions filled by persons employed by contract where
8 the director of human resources development has
9 certified that the service is special or unique or is
10 essential to the public interest and that, because of
11 circumstances surrounding its fulfillment, personnel
12 to perform the service cannot be obtained through
13 normal civil service recruitment procedures. Any such
14 contract may be for any period not exceeding one year;
- 15 (3) Positions that must be filled without delay to comply
16 with a court order or decree if the director
17 determines that recruitment through normal recruitment
18 civil service procedures would result in delay or
19 noncompliance, such as the Felix-Cayetano consent
20 decree;



- 1 (4) Positions filled by the legislature or by either house
2 or any committee thereof;
- 3 (5) Employees in the office of the governor and office of
4 the lieutenant governor, and household employees at
5 Washington Place;
- 6 (6) Positions filled by popular vote;
- 7 (7) Department heads, officers, and members of any board,
8 commission, or other state agency whose appointments
9 are made by the governor or are required by law to be
10 confirmed by the senate;
- 11 (8) Judges, referees, receivers, masters, jurors, notaries
12 public, land court examiners, court commissioners, and
13 attorneys appointed by a state court for a special
14 temporary service;
- 15 (9) One bailiff for the chief justice of the supreme court
16 who shall have the powers and duties of a court
17 officer and bailiff under section 606-14; one
18 secretary or clerk for each justice of the supreme
19 court, each judge of the intermediate appellate court,
20 and each judge of the circuit court; one secretary for
21 the judicial council; one deputy administrative



1 director of the courts; three law clerks for the chief
2 justice of the supreme court, two law clerks for each
3 associate justice of the supreme court and each judge
4 of the intermediate appellate court, one law clerk for
5 each judge of the circuit court, two additional law
6 clerks for the civil administrative judge of the
7 circuit court of the first circuit, two additional law
8 clerks for the criminal administrative judge of the
9 circuit court of the first circuit, one additional law
10 clerk for the senior judge of the family court of the
11 first circuit, two additional law clerks for the civil
12 motions judge of the circuit court of the first
13 circuit, two additional law clerks for the criminal
14 motions judge of the circuit court of the first
15 circuit, and two law clerks for the administrative
16 judge of the district court of the first circuit; and
17 one private secretary for the administrative director
18 of the courts, the deputy administrative director of
19 the courts, each department head, each deputy or first
20 assistant, and each additional deputy, or assistant
21 deputy, or assistant defined in paragraph (16);



- 1 (10) First deputy and deputy attorneys general, the
2 administrative services manager of the department of
3 the attorney general, one secretary for the
4 administrative services manager, an administrator and
5 any support staff for the criminal and juvenile
6 justice resources coordination functions, and law
7 clerks;
- 8 (11) (A) Teachers, principals, vice-principals, complex
9 area superintendents, deputy and assistant
10 superintendents, other certificated personnel,
11 not more than twenty noncertificated
12 administrative, professional, and technical
13 personnel not engaged in instructional work;
- 14 (B) Effective July 1, 2003, teaching assistants,
15 educational assistants, bilingual/bicultural
16 school-home assistants, school psychologists,
17 psychological examiners, speech pathologists,
18 athletic health care trainers, alternative school
19 work study assistants, alternative school
20 educational/supportive services specialists,
21 alternative school project coordinators, and



- 1 communications aides in the department of
2 education;
- 3 (C) The special assistant to the state librarian and
4 one secretary for the special assistant to the
5 state librarian; and
- 6 (D) Members of the faculty of the University of
7 Hawaii, including research workers, extension
8 agents, personnel engaged in instructional work,
9 and administrative, professional, and technical
10 personnel of the university;
- 11 (12) Employees engaged in special, research, or
12 demonstration projects approved by the governor;
- 13 (13) (A) Positions filled by inmates, patients of state
14 institutions, persons with severe physical or
15 mental disabilities participating in the work
16 experience training programs;
- 17 (B) Positions filled with students in accordance with
18 guidelines for established state employment
19 programs; and
- 20 (C) Positions that provide work experience training
21 or temporary public service employment that are



1 filled by persons entering the workforce or
2 persons transitioning into other careers under
3 programs such as the federal Workforce Investment
4 Act of 1998, as amended, or the Senior Community
5 Service Employment Program of the Employment and
6 Training Administration of the United States
7 Department of Labor, or under other similar state
8 programs;

9 (14) A custodian or guide at Iolani Palace, the Royal
10 Mausoleum, and Hulihee Palace;

11 (15) Positions filled by persons employed on a fee,
12 contract, or piecework basis, who may lawfully perform
13 their duties concurrently with their private business
14 or profession or other private employment and whose
15 duties require only a portion of their time, if it is
16 impracticable to ascertain or anticipate the portion
17 of time to be devoted to the service of the State;

18 (16) Positions of first deputies or first assistants of
19 each department head appointed under or in the manner
20 provided in section 6, article V, of the Hawaii State
21 Constitution; three additional deputies or assistants



1 either in charge of the highways, harbors, and
2 airports divisions or other functions within the
3 department of transportation as may be assigned by the
4 director of transportation, with the approval of the
5 governor; four additional deputies in the department
6 of health, each in charge of one of the following:
7 behavioral health, environmental health, hospitals,
8 and health resources administration, including other
9 functions within the department as may be assigned by
10 the director of health, with the approval of the
11 governor; an administrative assistant to the state
12 librarian; and an administrative assistant to the
13 superintendent of education;

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

16 (A) Any exemption created after July 1, 2014, shall
17 expire three years after its enactment unless
18 affirmatively extended by an act of the
19 legislature; and



- 1 (B) All of the positions defined by paragraph (9)
2 shall be included in the position classification
3 plan;
- 4 (18) Positions in the state foster grandparent program and
5 positions for temporary employment of senior citizens
6 in occupations in which there is a severe personnel
7 shortage or in special projects;
- 8 (19) Household employees at the official residence of the
9 president of the University of Hawaii;
- 10 (20) Employees in the department of education engaged in
11 the supervision of students during meal periods in the
12 distribution, collection, and counting of meal
13 tickets, and in the cleaning of classrooms after
14 school hours on a less than half-time basis;
- 15 (21) Employees hired under the tenant hire program of the
16 Hawaii public housing authority; provided that not
17 more than twenty-six per cent of the authority's
18 workforce in any housing project maintained or
19 operated by the authority shall be hired under the
20 tenant hire program;



- 1 (22) Positions of the federally funded expanded food and
2 nutrition program of the University of Hawaii that
3 require the hiring of nutrition program assistants who
4 live in the areas they serve;
- 5 (23) Positions filled by persons with severe disabilities
6 who are certified by the state vocational
7 rehabilitation office that they are able to perform
8 safely the duties of the positions;
- 9 (24) The sheriff;
- 10 (25) A gender and other fairness coordinator hired by the
11 judiciary;
- 12 (26) Positions in the Hawaii National Guard youth and adult
13 education programs;
- 14 (27) In the state energy office in the department of
15 business, economic development, and tourism, all
16 energy program managers, energy program specialists,
17 energy program assistants, and energy analysts;
- 18 (28) Administrative appeals hearing officers in the
19 department of human services;
- 20 (29) In the Med-QUEST division of the department of human
21 services, the division administrator, finance officer,



1 health care services branch administrator, medical
2 director, and clinical standards administrator;
3 (30) In the director's office of the department of human
4 services, the enterprise officer, information security
5 and privacy compliance officer, security and privacy
6 compliance engineer, and security and privacy
7 compliance analyst; [~~and~~]

8 [~~+~~] (31) [~~+~~] The Alzheimer's disease and related dementia services
9 coordinator in the executive office on aging [~~-~~]; and
10 (32) The positions of the executive director and the full
11 time staff of the school facilities agency.

12 The director shall determine the applicability of this
13 section to specific positions.

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

16 SECTION 6. Section 171-64.7, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) This section applies to all lands or interest therein
19 owned or under the control of state departments and agencies
20 classed as government or crown lands previous to August 15,
21 1895, or acquired or reserved by the government upon or



1 subsequent to that date by purchase, exchange, escheat, or the
2 exercise of the right of eminent domain, or any other manner,
3 including accreted lands not otherwise awarded, submerged lands,
4 and lands beneath tidal waters that are suitable for
5 reclamation, together with reclaimed lands that have been given
6 the status of public lands under this chapter, including:

- 7 (1) Land set aside pursuant to law for the use of the
8 United States;
- 9 (2) Land to which the United States relinquished the
10 absolute fee and ownership under section 91 of the
11 Organic Act prior to the admission of Hawaii as a
12 state of the United States;
- 13 (3) Land to which the University of Hawaii holds title;
- 14 (4) Land to which the Hawaii housing finance and
15 development corporation in its corporate capacity
16 holds title;
- 17 (5) Land to which the department of agriculture holds
18 title by way of foreclosure, voluntary surrender, or
19 otherwise, to recover moneys loaned or to recover
20 debts otherwise owed the department under chapter 167;



1 (6) Land that is set aside by the governor to the Aloha
2 Tower development corporation; or land to which the
3 Aloha Tower development corporation holds title in its
4 corporate capacity;

5 (7) Land that is set aside by the governor to the
6 agribusiness development corporation; or land to which
7 the agribusiness development corporation in its
8 corporate capacity holds title;

9 (8) Land to which the Hawaii technology development
10 corporation in its corporate capacity holds title;

11 (9) Land to which the department of education holds title;
12 [and]

13 (10) Land to which the Hawaii public housing authority in
14 its corporate capacity holds title[-]; and

15 (11) Land to which the school facilities agency holds
16 title."

17 SECTION 7. Section 302A-1602, Hawaii Revised Statutes, is
18 amended by amending the definition of "school facilities" to
19 read as follows:

20 "School facilities" means the facilities owned or operated
21 by the school facilities agency[-] or the department, or the



1 facilities included in the school facilities agency or the
2 department of education capital budget or capital facilities
3 plan."

4 SECTION 8. Section 302A-1603, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

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

- 7 (1) Any form of housing permanently excluding school-aged
8 children, with the necessary covenants or declarations
9 of restrictions recorded on the property;
- 10 (2) Any form of housing that is or will be paying the
11 transient accommodations tax under chapter 237D;
- 12 (3) All nonresidential development; and
- 13 (4) Any development with an executed education
14 contribution agreement or other like document with the
15 school facilities agency or the department of
16 education for the contribution of school sites or
17 payment of fees for school land or school
18 construction."

19 PART IV

20 SECTION 9. All rules, policies, procedures, guidelines,
21 and other materials relating to the school impact fees adopted



1 or developed by the department of education to implement
2 provisions of the Hawaii Revised Statutes that are reenacted or
3 made applicable to the school facilities agency by Act 72,
4 Session Laws of Hawaii 2020, shall be remain in full force and
5 effect until amended or repealed by the school facilities agency
6 pursuant to chapter 91, Hawaii Revised Statutes. In the
7 interim, every reference to the department of education,
8 chairperson of the board of education, or superintendent of
9 education relating to the school impact fees in those rules,
10 policies, procedures, guidelines, and other material is amended
11 to refer to the school facilities agency or school facilities
12 board, as appropriate.

13 SECTION 10. All deeds, lease, contracts, loans,
14 agreements, permits, or other documents relating to the school
15 impact fees executed or entered into by or on behalf of the
16 department of education, pursuant to the provisions of the
17 Hawaii Revised Statutes, that are reenacted or made applicable
18 to the school facilities board by Act 72, Session Laws of Hawaii
19 2020, shall remain in full force and effect. Effective July 1,
20 2021, every reference to the department of education,
21 chairperson of the board of education, or superintendent of



1 education relating to the school impact fees in those deeds,
2 leases, contracts, loans, agreements, permits, or other
3 documents shall be construed as a reference to the school
4 facilities agency or school agencies board, as appropriate.

5 SECTION 11. The department of education shall transfer the
6 total fund balance in the state educational facilities
7 improvement fund as of September 15, 2020 to the school
8 facilities special fund no later than days of the
9 effective date of this Act.

10 SECTION 12. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so
12 much thereof as may be necessary for fiscal year 2021-2022 to be
13 deposited into the school facilities special fund established
14 pursuant to section 302A-1706, Hawaii Revised Statutes.

15 SECTION 13. There is appropriated out of the school
16 facilities special fund the sum of \$ or so much
17 thereof as may be necessary for fiscal year 2021-2022 for the
18 purpose of this Act.

19 The sum appropriated shall be expended by the school
20 facilities agency for purposes of this Act.



1 SECTION 14. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 15. This Act shall take effect upon its approval.



Report Title:

School Facilities Agency; Department of Education; Transfer; Appropriation

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. Makes appropriation. (SD1)

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

