

ACT 252

S.B. NO. 538

A Bill for an Act Relating to Public Libraries.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the state librarian recently entered into a 5-1/4 year, \$11,200,000 outsourcing contract with a mainland book vendor to select, acquire, catalog, and process all new books for the State's public libraries. In doing so, Hawaii has become the first state to give broad control over its book selection process to a private company.

The firm in question, Baker & Taylor, an information and entertainment company based in Charlotte, North Carolina, has been the subject of a significant

amount of criticism regarding its performance under this contract. Specifically, the firm has been responsible for acquiring many duplicate and unwanted books. In addition, the purchase of critical reference works, particularly those dealing with Hawaiiiana, has declined and new purchases in some foreign languages and music have been eliminated. The contract calls for a flat fee for each book, no matter what the actual cost, and it has been alleged that an inordinate number of cheap books have been sent, which maximizes Baker and Taylor's profit at state expense. Moreover, the firm has recently become the subject, in another state, of a whistleblower's lawsuit for overcharging libraries and schools, which has been joined by the federal government.

The legislature finds that this type of outsourcing contract in general is poor public policy. It elevates the book's price over the book's content. Hawaii taxpayers should not be paying higher prices for books that they never wanted and do not use. The legislature finds that the savings generated will be worthless if inappropriate book choices are made.

The purpose of this Act is to direct the board of education to take all steps possible to allow input from the State's professional public service librarians in selecting library materials until the existing contract is terminated. If Baker and Taylor is in breach of contract with the board, the legislature requests the board to begin proceedings to terminate the contract immediately. As soon as the contract is terminated, but in any event no later than the end of the current contract date, this Act prohibits any outsourcing contract to purchase books and other resources for the state library system that fails to incorporate a book selection process involving the affected librarians.

SECTION 2. Chapter 312, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§312- Selection and acquisition of library books. (a) The board of education shall take all steps possible in any outsourcing contract in effect on the effective date of this Act, including the development and implementation of necessary procedures, to ensure formal involvement by the state public service librarians in the selection of books and other library materials.

(b) Upon termination of any outsourcing contract in effect on the effective date of this Act, decisions regarding the selection of books and other resources on behalf of the state library system that require the expenditure of public moneys shall be performed internally by the public service librarians of the state library system. The state librarian may contract with external sources for the purchase of books and other resources selected by the public service librarians. The state librarian shall be responsible for books or other resources acquired on behalf of the state library system.”

SECTION 3. Section 312-2, Hawaii Revised Statutes, is amended to read as follows:

“§312-2 Powers of board; special fund. The board of education may [make such]:

- (1) Except as provided in section 312- , make arrangements or contracts as are approved by the governor, with any county, city, association, society, person, or persons, for the purpose of benefiting the libraries and increasing their facilities and use; [subject]
- (2) Subject to section 26-12, enter into such arrangement or contract as is approved by the governor, with the Friends of the Library of Hawaii,

for the purpose of obtaining the use of the books and property and income of the Friends of the Library of Hawaii; [cooperate]

- (3) Cooperate by exchange and otherwise with libraries now existing or hereafter to be formed; [receive,]
- (4) Receive, use, manage, or invest moneys or other property, real, personal, or mixed which may be given, bequeathed, devised, or in any manner received from sources other than the legislature or any federal appropriation for any or all purposes of the libraries; [deposit]
- (5) Deposit with the director of finance in a special fund all moneys donated to the board for library services; [unless]
- (6) Unless otherwise provided for by the terms and conditions of the donation, convert, at such time as the board may at its sole discretion determine, any or all donations of property, real, personal, or mixed, into money to be deposited into the special fund; [expend] and
- (7) Expend the moneys in the special fund in accordance with the terms and conditions of each donation for the purposes of the libraries.

The board shall be the trustee of the special fund and all moneys therein shall be deemed to have been appropriated to the use and for the purposes of the board in providing library services. Nothing in this section shall be construed to limit the powers and duties of the board hereinbefore expressed, or to empower the board to obligate the State financially in any sum which shall not have been appropriated by the legislature for the use of the board.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 5. This Act shall take effect on July 1, 1997.

(Approved June 19, 1997.)

Note

1. Edited pursuant to HRS §23G-16.5.