

ACT 188

H.B. NO. 281

A Bill for an Act Relating to State Educational Facilities Repair and Maintenance.

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

PART I

SECTION 1. The children and teachers of Hawaii's public schools require safe, secure, well-maintained, and clean schools to achieve high levels of teaching and learning. It has become increasingly clear that the conditions of our public schools depend on the availability of funds and effective management of facility needs. Currently, the facility needs of many of our schools are not being met or properly addressed. Support, resources, technical assistance, training, and services are necessary to enable our school community to reach and maintain the highest level of performance standards.

The State has invested approximately \$1,700,000,000 in the construction and maintenance of our public schools. However, the funds have not been available to adequately repair and maintain these facilities. In 2001, the legislature passed and the governor enacted Act 316, which:

- (1) Established the school physical plant operations and maintenance account to pay for normal ongoing school repairs and preventive maintenance projects scheduled after June 30, 2001;
- (2) Established the state educational facilities repair and maintenance account to eliminate the backlog of projects existing on June 30, 2000;
- (3) Specified how school repairs and maintenance are to be prioritized and moneys allocated; and
- (4) Provided for the establishment of eight school business and fiscal officers to oversee school facilities planning.

The repair and maintenance program is currently operated under a memorandum of agreement between the department of education and the department of accounting and general services. Under this arrangement, the department of accounting and general services serves as the expending agency and overall project manager, and controls the implementation of all school-related repair and maintenance activities. A 1992 report by the auditor and other reports have attributed much of the increasing backlog and overall inefficiencies in school repair and maintenance to the lack of control afforded to the department of education under this agreement. To maximize the use of valuable taxpayer dollars, the department of education should be provided with the authority to oversee repair and maintenance moneys and hold the department of accounting and general services accountable for effectively and responsibly performing these duties.

Accordingly, the purpose of this part is to enable the department of education to set priorities for school repair and maintenance projects, which would then be carried out by the department of accounting and general services.

SECTION 2. In order for the department of education to effectively manage the educational facilities under their control, the following data shall be compiled and reported as follows:

- (1) The department of accounting and general services shall compile and submit a report not less than quarterly to the department of education regarding the current status of projects on pre-June 30, 2001, and post-June 30, 2001, lists, respectively, including:
 - (A) Information regarding proposed projects, including, but not limited to: date of project request, description, amount and date of estimated cost, priority code, current status, projected start date, and link to any other proposed project, which shall be reported in a format that will enable the information to be sorted by district, complex, school, building, classroom or other site-specific identifying criteria, and by type of work involved, site of project, and priority rank assignment;
 - (B) Other information to assist the department of accounting and general services and the department of education, and others to assess the possibility of combining projects by type (i.e., roofing, electrical), geographic location, or availability of government and private sector resources, to create synergies that facilitate earlier completion dates;
 - (C) A monthly status report of on-going projects, including: budgeted cost, cost accrued to date, estimated cost to complete, total projected completed cost, and projected budget overruns or savings amounts; and
 - (D) A monthly list of projects by school complex and school that will be ready for preliminary and final inspection for preparation of punch-lists and transmittal of final documents to the department of education;
- (2) The department of education shall compile and report information to all school complexes and schools indicating the current status of projects on pre-June 30, 2001, and post-June 30, 2001, lists, respectively, as follows:
 - (A) At least annually, a listing of requested capital improvement projects by school complex and school, including all information needed to enable the department of accounting and general services, the department of education, and others to evaluate the priority of appropriations and expending funds for facilities of a school or within a complex, whether the project is a capital improvement project, repair and maintenance project (pre-June 30, 2001, or post-June 30, 2001), or is placed in a lump sum or other category of work;
 - (B) At least annually, an integrated list of all project requests (i.e., capital improvement, repair and maintenance, emergency, etc.) by complex and school, and the current status of each request (i.e., completed, in process, pending funding, or disapproved); and
 - (C) On a quarterly basis, schedules for projects to commence at each school and complex; provided that the school and complex shall acknowledge and accept each project, including final completion; and
- (3) The department of education and the department of accounting and general services shall submit interim or final reports to the governor,

the legislature, the board of education, the department of budget and finance, and each school complex and school by September 30, 2003.

SECTION 3. The department of education and the department of accounting and general services shall submit a report to the legislature, not later than twenty days prior to the convening of each regular session, on actions taken to maximize utilization of available funding to develop a work schedule that incorporates all available resources to reduce the backlog of all identified repair and maintenance projects, including projects identified in the pre-June 30, 2001, and post-June 30, 2001, lists, from \$640,000,000 to \$100,000,000, together with recommendations and proposed legislation to implement the suggested transfer of authority over repair and maintenance funds from the department of accounting and general services and the department of education, if any.

PART II

SECTION 4. Section 36-35, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is created in the state general fund under AGS 807 (physical plant operations and maintenance) the state educational facilities repair and maintenance account, into which shall be deposited legislative appropriations to the account designated for use solely to eliminate the backlog of school repair and maintenance projects, including the repair or replacement of fixtures, furnishings, and equipment, existing on June 30, 2000. Expenditures from the account shall be subject to sections 37-31 and 37-33 to 37-40. [Appropriations] Based on the prioritization approved by the department of education as prescribed by section 302A-1505, appropriations or authorizations from the account shall be expended by the comptroller.”

SECTION 5. Section 36-36, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is created in the state general fund under AGS 807 (physical plant operations and maintenance) the school physical plant operations and maintenance account, into which shall be deposited all legislative appropriations to the account.

The moneys in the account shall be used solely for school repairs and preventive maintenance projects scheduled after June 30, 2001. Expenditures from the account shall be subject to sections 37-31 and 37-33 to 37-40. [Appropriations] Based on the prioritization approved by the department of education as prescribed by section 302A-1505, appropriations or authorizations from the account shall be expended by the comptroller.”

SECTION 6. Section 302A-604.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Departmental school district business and fiscal officers shall be responsible for:

- (1) Coordinating physical plant operations and maintenance activities with the [department] departments of education and accounting and general services;
- (2) Coordinating the training and selection of school custodians; monitoring the performance of school custodians in accomplishing minor repairs with funds from school-level minor repairs and maintenance accounts; and overseeing these accounts at the direction of school principals;
- (3) Planning for capital improvement projects with the department of education [and the department of accounting and general services];

- (4) Ensuring that school facilities comply with the laws and rules regarding:
 - (A) The provision of a free appropriate public education for exceptional children with disabilities; and
 - (B) The provision of a free appropriate public education for qualified students with disabilities;
- (5) Assisting the department, individual schools, and school complexes in forming partnerships with community groups, volunteers, and businesses to obtain donated and discounted repair and maintenance services and materials; and
- (6) Developing, coordinating, overseeing, and participating in the data collection for the physical plant analysis report and the maintenance plan for each school.”

SECTION 7. Section 302A-1312, Hawaii Revised Statutes, is amended to read as follows:

“~~[H]§302A-1312~~ **Six-year program and financial plan for school repair and maintenance.** (a) The department of accounting and general services, in consultation with the department of education, shall prepare a six-year program and financial plan for school repair and maintenance which shall be:

- (1) Based on:
 - (A) Estimated preventive and scheduled maintenance costs;
 - (B) Budgeted recurring maintenance;
 - (C) Health and safety requirements; and
 - (D) Legal mandates;
- (2) Insofar as is practical, prepared in accordance with the principles and procedures contained in section 514A-83.6; and
- (3) Submitted initially to the legislature not less than thirty days prior to the convening of the 2002 regular session, with annual funding requirements for the physical plant operations and maintenance account submitted not less than thirty days prior to the convening of the 2002 regular session and each regular session thereafter;

provided that the governor may incorporate the six-year program and financial plan required by this subsection into the six-year program and financial plan required by section 37-69, if the plan required by this subsection is incorporated without reductions or restrictions.

(b) The department of accounting and general services, in consultation with the department of education, shall develop and maintain a facilities physical analysis report and a facilities financial analysis report for each public school. These reports shall be posted electronically on the Internet.

(c) For the purposes of this section, the comptroller shall develop and implement appropriate planning procedures and follow-up accountability reports to ensure sound planning, control, and accountability in the use of moneys allocated by the legislature, as prescribed by section 302A-1309. The department of accounting and general services shall submit an annual report to the legislature, which shall include:

- (1) The priority listing established by section 302A-1505;
- (2) List of projects initiated by the department of accounting and general services; and
- (3) List of projects completed with associated actual cost.”

SECTION 8. Section 302A-1505, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each school shall meet with the ~~[department]~~ departments of education and accounting and general services on an annual basis to advise the department of school needs. Before any repair and maintenance projects for the upcoming fiscal year are implemented, each individual school administration shall prioritize and approve its repair and maintenance needs, and approve the scope of the implementation plan for the individual projects. After schools have prioritized their repair and maintenance projects, a statewide list shall be prepared and reviewed by the department of accounting and general services, and reviewed and approved by the department of education; provided that the department of education may make adjustments among schools and districts. Each school repair and maintenance priority listing shall be submitted by the department of education to the department of accounting and general services for implementation. Each listing shall be posted electronically on the Internet. The department of accounting and general services shall implement the school repair and maintenance program in accordance with the priorities set forth by the department of education. Where there are differing views as to priorities, the department of education shall make the final decision.”

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

SECTION 10. This Act shall take effect on July 1, 2003. :

(Approved June 17, 2003.)