

ACT 189

S.B. NO. 1660

A Bill for an Act Relating to Education.

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

SECTION 1. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§302A- Education design and construction project assessment fund.

(a) There shall be established in the department a revolving fund to be known as the education design and construction project assessment fund for the purpose of defraying the costs of:

- (1) Carrying out construction projects managed by the department;
- (2) Managing funds representing accumulated vacation and sick leave credits and retirement benefits for non-general fund employees in the construction program in accordance with section 78-23;
- (3) Equitably collecting and distributing moneys for other current expenses associated with capital improvement, repairs and maintenance, and repairs and alterations projects; and
- (4) Managing payments for employee transportation requirements such as car mileage reimbursements in accordance with applicable law and collective bargaining agreements.

(b) The superintendent shall assess construction projects managed by the department based on the superintendent’s evaluation of the costs of services for capital improvements, repairs and maintenance, and repairs and alterations projects. All assessments collected shall be deposited into the education design and construction project assessment fund.

(c) All expenditures from the education design and construction project assessment fund shall be made by the superintendent in accordance with applicable law and rules.”

SECTION 2. Section 36-32, Hawaii Revised Statutes, is amended to read as follows:

“§36-32 State educational facilities improvement special fund. (a) There is created in the treasury of the State the state educational facilities improvement special fund, into which shall be deposited a portion of all general excise tax revenues collected by the department of taxation under section 237-31. The special fund shall be used solely to plan, design, acquire lands for and to construct public school facilities and to provide equipment and technology infrastructure to improve public schools and other facilities under the jurisdiction of the department of education, except public libraries. In addition, activities of the department of education intended to eliminate the gap between the facility needs of schools and available resources shall be eligible for funding from the special fund. Expenditures from the special fund shall be limited to projects authorized by the legislature and shall be subject to sections 37-31, and 37-33 through 37-40. Appropriations or authorizations from the special fund shall be expended by the ~~[comptroller.]~~ superintendent of education.

(b) The department of [~~accounting and general services~~] education shall submit an annual report to the legislature[~~, which~~] that shall include a financial statement of the special fund and the status of projects undertaken pursuant to this section, no later than twenty days prior to the convening of each regular session.”

SECTION 3. 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 [~~EDN 100 (school-based budgeting)~~] EDN 400 (school support) 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. 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 superintendent of education.”

SECTION 4. Section 302A-1128, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The department shall have entire charge and control and be responsible for the conduct of all affairs pertaining to public instruction[~~;~~], including operating and maintaining the capital improvement and repair and maintenance programs for department and school facilities. The department may establish and maintain schools for secular instruction at such places and for such terms as in its discretion it may deem advisable and the funds at its disposal may permit. The schools may include high schools, kindergarten schools, schools or classes for pregrade education, boarding schools, Hawaiian language medium education schools, and evening and day schools. The department may also maintain classes for technical and other instruction in any school where there may not be pupils sufficient in number to justify the establishment of separate schools for these purposes.”

SECTION 5. Section 302A-1312, Hawaii Revised Statutes, is amended by amending sections¹ (b) and (c) to read as follows:

“(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~~] superintendent of education 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~~] education shall submit an annual report to the legislature[~~, which~~] that shall include:

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

SECTION 6. Section 302A-1312, Hawaii Revised Statutes, is amended by amending section¹ (a) to read as follows:

“(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~~] that 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.”

SECTION 7. Act 164, Session Laws of Hawaii 2004, is amended by amending section 9 to read as follows:

“SECTION 9. Section 302A-1312, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(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~~] that 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 -148; 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.””

SECTION 8. Section 302A-1505, Hawaii Revised Statutes, is amended to read as follows:

“**§302A-1505 Prioritization of repair and maintenance.** (a) Each school shall [~~meet with~~] inform the [~~departments~~] department of education [~~and accounting and general services~~] on an annual basis [~~to advise the department of school~~] of school repair and maintenance 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, and approved 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.]~~ complex areas. 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.]~~

(b) Prior to ~~[meeting with]~~ informing the department ~~[to advise it of a]~~ about the school's repair and maintenance needs, the school's principal ~~[and the business and fiscal officer]~~ shall consider the recommendations made by the school community council or the local school board, if the school is a new century conversion charter school.

(c) In prioritizing a school's repair and maintenance needs, the department ~~[of accounting and general services;]~~ and the school's principal~~[-and the business and fiscal officer]~~ shall consider the availability of donated and discounted repair and maintenance services and materials that will be provided by community groups, volunteers, and businesses."

SECTION 9. There is appropriated out of the education design and construction project assessment fund the sum of \$4,000,000, or so much thereof as may be necessary for fiscal year 2005-2006, and the sum of \$4,000,000, or so much thereof as may be necessary for fiscal year 2006-2007, to be expended for the purposes of this Act.

The sums appropriated shall be expended by the department of education for the purposes of this Act.

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.²

SECTION 11. This Act shall take effect on July 1, 2005; provided that section 6 shall not take effect if the contingent amendment addressed in section 35(5) of Act 164, Session Laws of Hawaii 2004, takes effect on July 1, 2005; and provided further that section 7 shall not take effect if the contingent amendment addressed in section 35(5) of Act 164, Session Laws of Hawaii 2004, does not take effect on July 1, 2005.

(Approved July 5, 2005.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.