

ACT 155

S.B. NO. 237

A Bill for an Act Relating to Public School Lands.

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

SECTION 1. The legislature finds that one of the major educational dilemmas of our time is rooted in an existing system that traps information-age students in agricultural-age schools. While the flow of information and ideas is increasingly fluid, students are confined to the physical structures and mindsets of an earlier time and place. Building, repairing, and retrofitting public schools to meet the challenges of the twenty-first century and beyond will not be easy, and the costs will be considerable. However, quality school infrastructure facilitates an environment that will prepare children to achieve and succeed in a highly competitive economy.

The infrastructure of the twenty-first century school must be energy efficient and wired with the latest technology. Classroom size must be flexible because the program, not the space, should determine the number of students per class. The school campus must be designed from its inception with student achievement in mind to maximize available land and student safety, and to offer the community multiple uses of existing structures. Most of Hawaii's school campuses fall short in these areas.

The legislature further finds that twenty-first century schools are also those that include a full complement of the people, programs, and places that support a wide range of personal learning styles and instructional modalities. Schools are often separated from personal and family service programs in urban and rural communities. One way to address this situation is to think about schools as the center of a community that can support all aspects of living and learning. The creation of school-centered communities will provide greater access to centrally located physical, cultural, social, economic, organizational, and educational programs and services that are within walking distance of children and families.

The considerable amount of underused public school lands on the State's two hundred fifty-four school campuses is an untapped resource that would provide infrastructure that could make classrooms, campuses, and communities suitable for the twenty-first century. By way of illustration, a preliminary review by a real estate expert indicates that ten parcels that have unused lands are valued at \$120,000,000 under existing surrounding uses. These lands could be developed solely for the benefit of Hawaii's public school children. The beneficiaries would be the children of Hawaii.

The purpose of this Act is to optimize the use of public school lands to generate opportunities to improve public school facilities and infrastructure to meet the challenges of the twenty-first century and to improve the overall quality of education in Hawaii. In particular, this Act establishes a pilot program to generate revenue from uses for public purposes, such as workforce housing, to build and retrofit twenty-first century schools and create more school-centered communities. The pilot program will lay important groundwork for a statewide approach and plan to optimize public school lands and modernize public school facilities. This Act also establishes the school facilities subaccount within chapter 302A, Hawaii Revised Statutes, into which shall be deposited all proceeds generated from the lease of public school lands. Moneys in the school facilities subaccount will be used to build or upgrade twenty-first century school facilities.

SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§302A-A Pilot program for lease of public school land. (a) There shall be established within the department a pilot program for the lease of public school land, including facilities. The department, in consultation with the board of education and any other appropriate agency, shall serve as the facilitator of the pilot program.

(b) Notwithstanding sections 171-13 and 302A-1151, or any other law to the contrary, the department may lease public school land on terms it deems appropriate; provided that:

- (1) The board may identify and select up to five public school land sites as candidates for participation in the pilot program; provided that:
 - (A) During the identification and selection process, the board shall be subject to chapter 92, shall hold at least one public meeting in each affected community, and shall foster school and community participation; and
 - (B) If the site is on land owned by the county, the department shall consult with the county;
- (2) The department may lease public school land for no more than three public school land sites identified and selected by the board pursuant to paragraph (1) under leases for a term of not more than fifty-five years per lease, unless extended pursuant to section 171-36, to lessees who shall be required to modify, construct, or utilize facilities to meet public purposes, including workforce rental housing units, in accordance with specific request for proposal or request for information guidelines; and
- (3) Each lease shall stipulate that the lessee may retain any revenue generated from the facilities; provided that:
 - (A) The lessee shall be obligated to maintain and operate the facilities for a public purpose for the length of the lease;
 - (B) The lessee shall be obligated to pay to the county all applicable property tax on the value of any improvements;
 - (C) A leasehold premium may be charged to the lessee for the right to use the public school land based on a competitive bid process;
 - (D) Upon the expiration of the lease, the facilities shall revert to the department; and
 - (E) All revenues and proceeds derived by the State under this section shall be deposited in the school facilities subaccount pursuant to section 302A-B.

(c) Any redevelopment involving nonschool purposes shall:

- (1) Comply with county plans, ordinances, and zoning and development codes; and
- (2) Acquire all required government approvals and permits.

(d) Nothing in this section shall preclude the department from working with and receiving assistance from any other department or agency in carrying out the purposes of this section.

(e) Any lease entered into by the department pursuant to subsection (b) shall be fully executed no later than five years from the effective date of this section.

§302A-B School facilities subaccount. (a) All proceeds from the leases, permits, interest income generated from public school lands, and other revenue generated from the non-permanent disposition of public school lands, including facilities, pursuant to section 302A-A shall be deposited into the school facilities subaccount established pursuant to section 302A-1148(b).

(b) Except as otherwise provided, all moneys in the school facilities subaccount shall be used exclusively for the new construction and upgrade of twenty-first century school facilities, as well as the repair and maintenance of existing school facilities.”

SECTION 3. Section 302A-1148, Hawaii Revised Statutes, is amended to read as follows:

“§302A-1148 Use of school facilities and grounds. (a) All public school buildings, facilities, and grounds shall be available for general recreational purposes, and for public and community use, whenever these activities do not interfere with the normal and usual activities of the school and its pupils. Any other law to the contrary notwithstanding, the department shall adopt rules under chapter 91 as are deemed necessary to carry out the purposes of this section and may issue licenses, revocable permits, concessions, or rights of entry to school buildings and grounds for such periods of use as deemed appropriate by the department. All such dispositions, including those in excess of fourteen days, need not be approved by the board of land and natural resources; provided that approval by the board of land and natural resources shall be required when the dispositions are for periods in excess of a year. The department may assess and collect fees and charges from the users of school buildings, facilities, grounds, and equipment, which include fees and charges assessed and collected by the department for parking on roadways and in parking areas under the jurisdiction of the department, pursuant to section 302A-1151.6. The fees and charges shall be deposited into a separate fund and expended by the department under rules as may be adopted by the board; provided that any parking fees assessed and collected by a school shall be deposited to the credit of that school’s nonappropriated local school fund account.

(b) A separate subaccount of the fund established pursuant to subsection (a), to be known as the school facilities subaccount, shall be established for all proceeds from the leases, permits, interest income generated from public school lands, and other revenue generated from the non-permanent disposition of public school lands, including facilities, pursuant to section 302A-A. The subaccount shall be governed by section 302A-B.”

SECTION 4. The department of education shall submit a report to the legislature no later than twenty days prior to the convening of the regular session of 2014 and each regular session thereafter until the completion of each project authorized pursuant to this Act. The report shall provide the following:

- (1) A timeline for the pilot program pursuant to this Act, including but not limited to:
 - (A) A timeline for the redevelopment of each selected site;
 - (B) An estimate start and completion date for each selected site; and
 - (C) Estimates for the time required to obtain any necessary county or state approvals required to complete the redevelopment of each site;
- (2) A summary of the department of education’s activities, results, and recommendations to optimize the use of public school lands as a means to build or renovate twenty-first century schools and school-centered communities;
- (3) A summary of all school and community engagement efforts undertaken or that will be undertaken by the department of education in carrying out the pilot program pursuant to this Act;

- (4) A summary of the department of education's current and projected budgeted expenses, including the identification of any contracts with third parties and the creation of temporary positions within the department in carrying out the pilot program pursuant to this Act;
- (5) A summary of any capacity and funding issues or challenges the department of education has encountered in carrying out the pilot project pursuant to this Act; and
- (6) Any proposed legislation.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$100,000 or so much thereof as may be necessary for fiscal year 2013-2014 and the same sum or so much thereof as may be necessary for fiscal year 2014-2015 for the public school lands pilot program established pursuant to section 2 of this Act.

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

SECTION 6. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 8. This Act shall take effect on July 1, 2013.

(Approved June 21, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.