

ACT 157

S.B. NO. 458

A Bill for an Act Relating to the State Educational Facilities Improvement Special Fund.

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

PART I

SECTION 1. Section 36-32, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(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 tech-

nology 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 for fiscal years ending prior to July 1, 2016, 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 superintendent of education.

(b) There is established within the state educational facilities improvement special fund a separate account, to be known as the lease payments for schools account, for lease payments required by financing agreements entered into prior to July 1, 2013, by the department of education pursuant to this section and sections 37D-2 and 302A-1506. The lease payments for schools account shall be funded by legislative appropriations and expended by the superintendent of education. Expenditures from the lease payments for schools account shall be exempt from chapters 103 and 103D and are restricted to lease payments on new schools included within the department of education's current six year capital improvement programs and for which:

- (1) The legislature adopted a concurrent resolution directing the department of education to:
 - (A) Build a new school in a specific geographic area using the design-build method; and
 - (B) Pursue the use of a financing agreement to build the new school; or
- (2) The legislature appropriated planning and design funds and specified that the remainder of the costs necessary to complete the project are eligible for funding through a financing agreement;

provided that any school to which the legislature has appropriated planning and design funds prior to July 1, 2007, and for which a private developer is willing to enter into a lease-purchase agreement with the department of education within twelve months of July 1, 2007, is exempt from the requirements of [§] paragraphs [§] (1) and (2).”

SECTION 2. Section 237-31, Hawaii Revised Statutes, is amended to read as follows:

“§237-31 Remittances. All remittances of taxes imposed by this chapter shall be made by money, bank draft, check, cashier's check, money order, or certificate of deposit to the office of the department of taxation to which the return was transmitted. The department shall issue its receipts therefor to the taxpayer and shall pay the moneys into the state treasury as a state realization, to be kept and accounted for as provided by law; provided that:

- ~~(1)~~ ~~The sum from all general excise tax revenues realized by the State that represents the difference between \$45,000,000 and the proceeds from the sale of any general obligation bonds authorized for that fiscal year for the purposes of the state educational facilities improvement special fund shall be deposited in the state treasury in each fiscal year to the credit of the state educational facilities improvement special fund;~~
 - (1) A sum, not to exceed \$5,000,000, from all general excise tax revenues realized by the State shall be deposited in the state treasury in each fiscal year to the credit of the compound interest bond reserve fund; and

- ~~[(3)]~~ (2) A sum from all general excise tax revenues realized by the State that is equal to one-half of the total amount of funds appropriated or transferred out of the hurricane reserve trust fund under sections 4 and 5 of Act 62, Session Laws of Hawaii 2011, shall be deposited into the hurricane reserve trust fund in fiscal year 2013-2014 and in fiscal year 2014-2015; provided that the deposit required in each fiscal year shall be made by October 1 of that fiscal year.”

PART II

SECTION 3. Section 36-27, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as provided in this section, and notwithstanding any other law to the contrary, from time to time, the director of finance, for the purpose of defraying the prorated estimate of central service expenses of government in relation to all special funds, except the:

- (1) Special out-of-school time instructional program fund under section 302A-1310;
- (2) School cafeteria special funds of the department of education;
- (3) Special funds of the University of Hawaii;
- ~~[(4)]~~ ~~State educational facilities improvement special fund;~~
- ~~[(5)]~~ (4) Convention center enterprise special fund under section 201B-8;
- ~~[(6)]~~ (5) Special funds established by section 206E-6;
- ~~[(7)]~~ (6) Housing loan program revenue bond special fund;
- ~~[(8)]~~ (7) Housing project bond special fund;
- ~~[(9)]~~ (8) Aloha Tower fund created by section 206J-17;
- ~~[(10)]~~ (9) Funds of the employees’ retirement system created by section 88-109;
- ~~[(11)]~~ (10) Unemployment compensation fund established under section 383-121;
- ~~[(12)]~~ (11) Hawaii hurricane relief fund established under chapter 431P;
- ~~[(13)]~~ (12) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
- ~~[(14)]~~ (13) Tourism special fund established under section 201B-11;
- ~~[(15)]~~ (14) Universal service fund established under section 269-42;
- ~~[(16)]~~ (15) Emergency and budget reserve fund under section 328L-3;
- ~~[(17)]~~ (16) Public schools special fees and charges fund under section 302A-1130;
- ~~[(18)]~~ (17) Sport fish special fund under section 187A-9.5;
- ~~[(19)]~~ (18) Glass advance disposal fee established by section 342G-82;
- ~~[(20)]~~ (19) Center for nursing special fund under section 304A-2163;
- ~~[(21)]~~ (20) Passenger facility charge special fund established by section 261-5.5;
- ~~[(22)]~~ (21) Court interpreting services revolving fund under section 607-1.5;
- ~~[(23)]~~ (22) Hawaii cancer research special fund;
- ~~[(24)]~~ (23) Community health centers special fund;
- ~~[(25)]~~ (24) Emergency medical services special fund;
- ~~[(26)]~~ (25) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
- ~~[(27)]~~ (26) Shared services technology special fund under section 27-43; and
- ~~[(28)]~~ (27) Automated victim information and notification system special fund established under section 353-136,

shall deduct five per cent of all receipts of all special funds, which deduction shall be transferred to the general fund of the State and become general realizations of the State. All officers of the State and other persons having power to allocate or disburse any special funds shall cooperate with the director in effecting these transfers. To determine the proper revenue base upon which the central service assessment is to be calculated, the director shall adopt rules pursuant to chapter 91 for the purpose of suspending or limiting the application of the central service assessment of any fund. No later than twenty days prior to the convening of each regular session of the legislature, the director shall report all central service assessments made during the preceding fiscal year.”

SECTION 4. Section 36-30, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) Each special fund, except the:
 - (1) Transportation use special fund established by section 261D-1;
 - (2) Special out-of-school time instructional program fund under section 302A-1310;
 - (3) School cafeteria special funds of the department of education;
 - (4) Special funds of the University of Hawaii;
 - ~~[(5)]~~ ~~State educational facilities improvement special fund;~~
 - ~~[(6)]~~ (5) Special funds established by section 206E-6;
 - ~~[(7)]~~ (6) Aloha Tower fund created by section 206J-17;
 - ~~[(8)]~~ (7) Funds of the employees’ retirement system created by section 88-109;
 - ~~[(9)]~~ (8) Unemployment compensation fund established under section 383-121;
 - ~~[(10)]~~ (9) Hawaii hurricane relief fund established under section 431P-2;
 - ~~[(11)]~~ (10) Convention center enterprise special fund established under section 201B-8;
 - ~~[(12)]~~ (11) Hawaii health systems corporation special funds and the subaccounts of its regional system boards;
 - ~~[(13)]~~ (12) Tourism special fund established under section 201B-11;
 - ~~[(14)]~~ (13) Universal service fund established under section 269-42;
 - ~~[(15)]~~ (14) Emergency and budget reserve fund under section 328L-3;
 - ~~[(16)]~~ (15) Public schools special fees and charges fund under section 302A-1130;
 - ~~[(17)]~~ (16) Sport fish special fund under section 187A-9.5;
 - ~~[(18)]~~ (17) Center for nursing special fund under section 304A-2163;
 - ~~[(19)]~~ (18) Passenger facility charge special fund established by section 261-5.5;
 - ~~[(20)]~~ (19) Court interpreting services revolving fund under section 607-1.5;
 - ~~[(21)]~~ (20) Hawaii cancer research special fund;
 - ~~[(22)]~~ (21) Community health centers special fund;
 - ~~[(23)]~~ (22) Emergency medical services special fund;
 - ~~[(24)]~~ (23) Rental motor vehicle customer facility charge special fund established under section 261-5.6;
 - ~~[(25)]~~ (24) Shared services technology special fund under section 27-43;
 - ~~[(26)]~~ (25) Nursing facility sustainability program special fund, ~~[(25)]~~ under Act 156, Session Laws of Hawaii 2012~~[(25)]~~;
 - ~~[(27)]~~ (26) Automated victim information and notification system special fund established under section 353-136; and
 - ~~[(28)]~~ (27) Hospital sustainability program special fund under ~~[(27)]~~ Act 217, Session Laws of Hawaii 2012~~[(27)]~~,

shall be responsible for its pro rata share of the administrative expenses incurred by the department responsible for the operations supported by the special fund concerned.”

SECTION 5. Section 37D-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is hereby established and authorized the financing agreement program of the State. Any agency desiring to acquire or improve projects through the financing agreement program established and authorized by this chapter shall submit a written request to the department providing any information that the department shall require. Notwithstanding any other law to the contrary, and except for the Hawaii health systems corporation and its regional system boards, only with the approval by the attorney general as to form and legality and upon the written request of one or more agencies may the department enter into a financing agreement in accordance with this chapter, and only with the approval by the attorney general as to form and legality, and by the director as to fiscal responsibility, and upon the written request of an agency, the agency may enter into a financing agreement in accordance with this chapter, except that ~~the department of education may enter into a financing agreement in accordance with section 36-32 with the concurrence of the director and with the approval of the attorney general as to form and legality; and that~~ the board of regents of the University of Hawaii may enter into a financing agreement in accordance with this chapter without the approval of the director and of the attorney general as to form and legality if the principal amount of the financing agreement does not exceed \$3,000,000. A financing agreement may be entered into by the department on behalf of one or more agencies, or by an agency, at any time (before or after commencement or completion of any improvements or acquisitions to be financed) and shall be upon terms and conditions the department finds to be advantageous. In each case of a written request by the judiciary to participate in the financing agreement program, the department shall implement the request; provided that the related financing agreement shall be upon terms and conditions the department finds to be advantageous. Any financing agreement entered into by the department without the approval, or by an agency without the approvals required by this section shall be void and of no effect. A single financing agreement entered into by the department may finance a single item or multiple items of property to be used by multiple agencies or may finance a single item or multiple items of property to be used by a single agency. If the financing agreement is by the department, the department shall bill any agency that benefits from property acquired with the proceeds of a financing agreement for the agency’s pro rata share of:

- (1) The department’s costs of administration of the financing agreement program; and
- (2) The financing costs, including the principal and interest components of the financing agreement and insurance premiums,

on a monthly or other periodic basis, and may deposit payments received in connection with the billings with a trustee as security for the financing agreement. Any agency receiving such a bill shall be authorized and shall pay the amounts billed from available moneys.

If a financing agreement is by an agency, the agency shall deposit on a monthly or other periodic basis with the department, payments from available moneys with respect to the agency’s financing costs, including the principal and interest components of the financing agreement and insurance premiums, which payments the department may deposit with a trustee as security for the financing agreement. The department may bill an agency for the department’s costs of

ACT 157

administering the agency's payments and the agency receiving such a bill shall be authorized to and shall pay the amounts billed from available moneys."

SECTION 6. Section 36-32, Hawaii Revised Statutes, is repealed.

SECTION 7. All moneys collected pursuant to section 237-31, Hawaii Revised Statutes, deposited into the state educational facilities improvement special fund established under section 36-32, Hawaii Revised Statutes, and remaining unencumbered on balance in that special fund shall lapse to the credit of the general obligation bond fund on July 1, 2023.

PART III

SECTION 8. Statutory material to be repealed is bracketed and stricken.¹ New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval; provided that:

- (1) Part II shall take effect on July 1, 2023;
- (2) The amendments made to section 36-27(a), Hawaii Revised Statutes, by section 3 of this Act shall not be repealed when that section is reenacted on June 30, 2015, pursuant to Act 79, Session Laws of Hawaii 2009; and
- (3) The amendments made to section 36-30(a), Hawaii Revised Statutes, by section 4 of this Act shall not be repealed when that section is reenacted on June 30, 2015, pursuant to Act 79, Session Laws of Hawaii 2009.

(Approved June 21, 2013.)

Note

1. Edited pursuant to HRS §23G-16.5.