

ACT 26

S.B. NO. 1098

A Bill for an Act Relating to Libraries.

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

SECTION 1. Chapter 312, Hawaii Revised Statutes, sets forth the duties and responsibilities of the board of education. This Act makes housekeeping amendments that will more accurately reflect long-standing board of education and Hawaii state public library system practice. These duties and responsibilities, which were initially assigned to the board of education, have been delegated to the state librarian and the Hawaii state public library system for many decades.

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

“§312- State librarian; appointment; duties. The state librarian shall collect, purchase, receive gifts of, and otherwise acquire all books and other

publications proper for libraries, and arrange, classify, and catalog the same; provide for their safekeeping; expend moneys appropriated by the legislature and otherwise acquired for the development, use, support, and maintenance of libraries; provide ways and means for placing libraries within reach of all residents throughout the State and particularly of all public and private school children; provide and maintain branch libraries, offices, or places for the distribution of books and periodicals throughout the State; enter into contracts as may be necessary to carry into effect the general duties herein imposed; appoint such officers and employees as deemed necessary, all of whom shall be under the authority of the governor for purposes of chapters 76, 78, 89, and 89C; and adopt rules for the management and use of libraries, and for the control of the property under its management.”

SECTION 3. Section 312-1, Hawaii Revised Statutes, is amended to read as follows:

“**§312-1 Duties of the board of education.** The board of education shall care for, manage, and control all property set apart, donated, loaned to, or in any manner acquired for the use of libraries; receive, care for, expend, and account for any money which may be received for the purpose of erecting buildings for libraries or for any other purposes of the libraries[; collect, purchase, receive gifts of, and otherwise acquire all books and other publications proper for libraries, and arrange, classify, and catalogue the same; provide for their safekeeping; expend moneys appropriated by the legislature and otherwise acquired for the development, use, support, and maintenance of libraries; provide ways and means for placing libraries within reach of all residents throughout the State and particularly of all public and private school children; provide and maintain branch libraries, offices, or places for the distribution of books and periodicals throughout the State; make such contracts as may be necessary to carry into effect the general duties herein imposed; appoint such officers and employees as it deems necessary; and make rules for the management and use of libraries, and for the control of the property under its management].”

SECTION 4. Section 312-2, Hawaii Revised Statutes, is amended to read as follows:

“**§312-2 Powers of board; special fund.** The board of education may:

- (1) Except as provided in section 312-3.9, 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;
- (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, affiliates of the Friends of the Library of Hawaii, and any tax-exempt nonprofit organization recognized under Section 501(c)(3) of the Internal Revenue Code whose primary purpose is to support a state library branch for the purpose of obtaining the use of the books and property and income of the Friends of the Library of Hawaii, its affiliates, and such tax-exempt nonprofit organizations;
- (3) Cooperate by exchange and otherwise with libraries now existing or hereafter to be formed;
- (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;
- (5) Deposit with the director of finance in a special fund all moneys donated to the board for library services;
 - (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; 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)~~ Hawaii state public library system 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 5. Section 312-4.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The ~~[board of education]~~ state librarian may charge and add a fee to any amount due in accordance with ~~[its]~~ the state librarian's duties and powers under section ~~[312-4]~~ 312-___ for:

- (1) Any cost or expense incurred by the Hawaii state public library system as a result of any action taken to enforce the collection of costs of lost books and any overdue fines and fees charged to that patron after the public library system has mailed written notice demanding payment and advising that continued failure to pay the amount due may result in collection action being taken, including the imposition of cost-recovery fees, not to exceed \$10, pursuant to this section. Any cost-recovery fee charged against the patron for costs, fees, and other charges may include collection agency fees, attorneys' fees, court filing fees, and similar fees incurred by the Hawaii state public library system in connection with the collection action;
- (2) Hawaii public library system sponsored seminars or workshops, including educational materials in various media format; and
- (3) Research and reference materials published on magnetic media, CD-ROM, or other ~~[machine-readable]~~ digital or electronic form."

SECTION 6. Section 312-4.6, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) The ~~[board of education]~~ state librarian shall prescribe the procedures relating to:

- (1) The charging of fees;
- (2) The waiver of fees;
- (3) The documents, materials, and services for which fees may be charged;
- (4) The amount of the fees that may be assessed and charged to a library patron;
- (5) The accumulated amount of lost library material costs, fines, or fees;
- (6) The period of time that the lost library materials costs, fines, or fees must remain unpaid before they may be referred to a collection

- agency for collection pursuant to rules adopted under chapter 91; and
- (7) The notification of persons with delinquent accounts of the additional fees to be charged by the collection agency prior to the referral to the collection agency.”

SECTION 7. Section 312-5, Hawaii Revised Statutes, is amended to read as follows:

“§312-5 Annual report to the governor. Annually during the month of July but as of June 30 preceding, the ~~[board of education]~~ state librarian shall report to the governor the moneys received from all sources and expended for all purposes during the preceding year, and any other matters pertaining to the libraries which it may deem important, or the governor may require.”

SECTION 8. Section 312-21, Hawaii Revised Statutes, is amended by amending subsection (a) as follows:

- “(a) The ~~[board of education, through the]~~ state librarian~~;~~ shall:
- (1) Provide for the establishment and ongoing operation of a fee for enhanced service program, which includes but is not limited to the planning, programming, and budgeting of operating, research and development, and capital investment programs; and
 - (2) Administer a special fund to be known as the “library fee for enhanced services special fund”.”

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 10. This Act shall take effect upon its approval.
(Approved May 1, 2015.)

Note

1. Edited pursuant to HRS §23G-16.5.