
A BILL FOR AN ACT

RELATING THE TRANSFER OF LANDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Act 97, Session Laws
2 of Hawaii 1965, transferred the responsibility for functions
3 that were deemed to be of statewide concern from the counties to
4 the State. Among these functions were the planning,
5 construction, improvement, and maintenance of public school
6 facilities and grounds, and the transportation of school
7 children. Prior to the passage of Act 97, Session Laws of
8 Hawaii 1965, the counties issued bonds to plan, construct,
9 improve, and maintain public school facilities and grounds.
10 Since these functions are now wholly the responsibility of the
11 State, it only makes sense to begin transferring all remaining
12 county lands and improvements under the department of education
13 to the State.

14 Act 154, Session Laws of Hawaii 2003, conveyed fee simple
15 title of all county of Hawaii lands being used by the department
16 of education to the State. The county of Hawaii was the only



1 county for which legislation was passed to convey the fee simple
2 interest in its properties to the State.

3 The State of Hawaii's department of education has invested
4 significant public funds on the maintenance and capital
5 improvement projects for new school facilities. The expenditure
6 of these public funds was done without regard to the underlying
7 fee ownership of the property. If the school is on county land,
8 this investment in vertical improvements is transferred to the
9 county when a school is closed, which is what happened when
10 Wailupe elementary school closed.

11 The legislature further finds that Act 155, Session Laws of
12 Hawaii 2013, provided the department of education with the
13 authority to develop its assets to create twenty-first century
14 schools. Act 155 also allowed the department of education to
15 explore different mechanisms to redevelop its assets, including
16 revenue generation in support of investments in twenty-first
17 century schools.

18 The legislature additionally finds that the department of
19 education is responsible for approximately 2,120 acres
20 (92,353,688 square feet) of land under its school facilities
21 within the city and county of Honolulu. Of this total land



1 area, the city and county of Honolulu owns approximately one-
2 half of the land under the existing school facilities,
3 approximately one thousand and four acres (43,753,360 square
4 feet).

5 The legislature finds that the split ownership of the
6 underlying fee simple lands under existing schools creates
7 problems for redevelopment, especially when private investment
8 is involved. In order to allow the department of education
9 flexibility to redevelop or reposition its assets, especially
10 along the rail transit corridor, the State of Hawaii should
11 consolidate ownership of the lands under existing public
12 schools.

13 In addition, from an asset management standpoint, the
14 department of education should also be given the authority and
15 responsibility to own the real property on which its educational
16 facilities are located. This will allow the department to
17 maximize the value of its real estate assets as it seeks to
18 redevelop and reposition public educational facilities in the
19 future.



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

4 "§302A- Public school real property, acquisition, use,
5 and disposition of property. (a) The department may acquire or
6 contract to acquire by grant or purchase any real, personal, or
7 mixed property or any interest therein for its immediate or
8 future use for public educational purposes, including lease
9 revenues; and own, hold, improve, and rehabilitate any real,
10 personal, or mixed property acquired, and sell, assign,
11 exchange, transfer, convey, lease, or otherwise dispose of, or
12 encumber the same; provided that the department shall incur all
13 fees and costs associated with the redevelopment of any land,
14 including fees and costs for subdividing land or creating
15 condominium property regimes.

16 (b) The department may by itself, or in partnership with
17 qualified persons, acquire, construct, reconstruct,
18 rehabilitate, improve, alter, or repair any infrastructure or
19 accessory facilities in connection with any project; and own,
20 hold, sell, assign, transfer, convey, exchange, lease, or
21 otherwise dispose of, or encumber any project.



1 (c) The department may lease or rent all or a portion of
2 any real property acquired for public educational purposes and
3 establish and revise the rents or charges therefor. The
4 department shall sell, exchange, transfer, assign, or pledge any
5 property, real or personal, or any interest therein only to a
6 government entity.

7 (d) The department may insure or provide for the insurance
8 of its property or operations against risks as it deems
9 advisable.

10 (e) For purposes of this section:

11 "Land" or "property" includes vacant land or land with site
12 improvements, whether partially or entirely finished in
13 accordance with governmental subdivision standards, or with
14 complete dwellings.

15 "Public educational purposes" includes any use of the
16 property, including revenue generation, that would benefit the
17 department's mission to provide public education to students in
18 the State.

19 "Real property" includes lands, land under water,
20 structures, and any and all easements, franchises, and
21 incorporeal hereditaments and every estate and right therein,



1 legal and equitable, including terms for years and liens by way
2 of judgment, mortgage, or otherwise."

3 SECTION 3. Section 171-2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§171-2 Definition of public lands. "Public lands" means
6 all lands or interest therein in the State classed as government
7 or crown lands previous to August 15, 1895, or acquired or
8 reserved by the government upon or subsequent to that date by
9 purchase, exchange, escheat, or the exercise of the right of
10 eminent domain, or in any other manner; including lands accreted
11 after May 20, 2003, and not otherwise awarded, submerged lands,
12 and lands beneath tidal waters that are suitable for
13 reclamation, together with reclaimed lands that have been given
14 the status of public lands under this chapter, except:

- 15 (1) Lands designated in section 203 of the Hawaiian Homes
16 Commission Act, 1920, as amended;
- 17 (2) Lands set aside pursuant to law for the use of the
18 United States;
- 19 (3) Lands being used for roads and streets;
- 20 (4) Lands to which the United States relinquished the
21 absolute fee and ownership under section 91 of the



1 Hawaiian Organic Act prior to the admission of Hawaii
2 as a state of the United States unless subsequently
3 placed under the control of the board of land and
4 natural resources and given the status of public lands
5 in accordance with the state constitution, the
6 Hawaiian Homes Commission Act, 1920, as amended, or
7 other laws;

8 (5) Lands to which the University of Hawaii holds title;

9 (6) Lands to which the Hawaii housing finance and
10 development corporation in its corporate capacity
11 holds title;

12 (7) Lands to which the Hawaii community development
13 authority in its corporate capacity holds title;

14 (8) Lands to which the department of agriculture holds
15 title by way of foreclosure, voluntary surrender, or
16 otherwise, to recover moneys loaned or to recover
17 debts otherwise owed the department under chapter 167;

18 (9) Lands that are set aside by the governor to the Aloha
19 Tower development corporation; lands leased to the
20 Aloha Tower development corporation by any department
21 or agency of the State; or lands to which the Aloha



1 Tower development corporation holds title in its
 2 corporate capacity;

3 (10) Lands that are set aside by the governor to the
 4 agribusiness development corporation; lands leased to
 5 the agribusiness development corporation by any
 6 department or agency of the State; or lands to which
 7 the agribusiness development corporation in its
 8 corporate capacity holds title; [and]

9 (11) Lands to which the high technology development
 10 corporation in its corporate capacity holds title; and

11 (12) Lands to which the department of education holds
 12 title;

13 provided that, except as otherwise limited under federal law and
 14 except for state land used as an airport as defined in section
 15 262-1, public lands shall include the air rights over any
 16 portion of state land upon which a county mass transit project
 17 is developed after July 11, 2005."

18 SECTION 4. (a) Notwithstanding any law to the contrary,
 19 the following lands, the fee simple interest in the following
 20 parcels of land, with the existing improvements thereon, shall
 21 be conveyed by the city and county of Honolulu and department of



1 land and natural resources, as appropriate, to the department of
2 education:

- 3 (1) TMK 1-9-4-59-72, 1-9-4-59-73, 1-9-4-59-74 (August
4 Ahrens Elementary);
- 5 (2) TMK 1-9-1-115-13 (Ewa Beach Elementary);
- 6 (3) TMK 1-9-1-17-2, 1-9-1-17-37 (Ewa Elementary);
- 7 (4) TMK 1-9-7-36-124 (Highlands Intermediate);
- 8 (5) TMK 1-9-1-1-2 (portion) (Ilima Intermediate);
- 9 (6) TMK 1-9-1-1-3 (Iroquois Point Elementary);
- 10 (7) TMK 1-9-1-1-22 (Kaimiloa Elementary);
- 11 (8) TMK 1-9-7-93-16 (portion) (Palisades Elementary; 5.117
12 acres);
- 13 (9) TMK 1-9-7-24-2, 1-9-7-94-20 (Pearl City Elementary);
- 14 (10) TMK 1-9-7-36-122 (Pearl City Highlands Elementary);
- 15 (11) TMK 1-9-1-1-2 (portion) (Pohakea Elementary);
- 16 (12) TMK 1-9-4-10-40, 1-9-4-10-98, 1-9-4-29-1 (Waipahu
17 Elementary);
- 18 (13) TMK 1-9-4-1-29 (portion), 1-9-4-1-30 (Waipahu
19 Intermediate);
- 20 (14) TMK 1-1-1-10-33 (portion), 1-1-1-10-41 (Aliamanu
21 Elementary);



- 1 (15) TMK 1-1-1-10-33 (portion) (Aliamanu Intermediate);
- 2 (16) TMK 1-9-8-29-2, 1-9-8-29-29 (Alvah Scott Elementary);
- 3 (17) TMK 1-1-1-34-42 (Moanalua Elementary);
- 4 (18) TMK 1-1-1-9-5 (portion) (Moanalua Intermediate);
- 5 (19) TMK 1-1-1-2-6 (Nimitz Elementary);
- 6 (20) TMK 1-1-1-10-27 (Pearl Harbor Elementary);
- 7 (21) TMK 1-9-8-8-7 (portion) (Waimalu Elementary);
- 8 (22) TMK 1-3-6-11-9 (portion) (Aina Haina Elementary);
- 9 (23) TMK 3-4-004-002, 3-4-004-006, 3-4-004-007, 3-4-004-
- 10 049 (portion) (Anuenue Elementary);
- 11 (24) TMK 2-1-005-001 (portion), 2-1-005-002, 2-1-009-001,
- 12 2-1-009-002, 2-1-009-003 (Central Intermediate);
- 13 (25) TMK 1-3-024-004, 1-3-024-005 (Dole Intermediate);
- 14 (26) TMK 1-3-001-017, 1-3-001-023, 1-3-001-058 (Fern
- 15 Elementary);
- 16 (27) TMK 3-9-038-001 (portion) (Hahaione Elementary);
- 17 (28) TMK 2-8-029-010, 2-8-029-11 (Hokulani Elementary);
- 18 (29) TMK 2-4-012-001, 2-4-012-002 (Kaahumanu Elementary);
- 19 (30) TMK 1-3-024-001, 1-3-024-002 (Kaewai Elementary);
- 20 (31) TMK 3-5-011-027 (Kahala Elementary);
- 21 (32) TMK 3-2-059-002 (Kaimuki Intermediate);



- 1 (33) TMK 1-5-024-029, 1-5-024-040, 1-5-024-001, 1-5-025-002
2 (portion) (Kalakaua Intermediate);
- 3 (34) TMK 1-4-007-002 (portion) (Kalihi Elementary);
- 4 (35) TMK 1-5-025-002 (portion), 1-5-028-075 (Kalihi-Kai
5 Elementary);
- 6 (36) TMK 1-3-035-001 (portion), 1-3-036-015, 1-3-036-079
7 (Kalihi-Uka Elementary);
- 8 (37) TMK 3-9-005-061 (Kamiloiki Elementary);
- 9 (38) TMK 1-6-026-022 (Kapalama Elementary);
- 10 (39) TMK 1-7-023-041, 1-7-023-042 (Kauluwela Elementary);
- 11 (40) TMK 2-2-009-011, 2-2-009-013 (Kawananakoa
12 Intermediate);
- 13 (41) TMK 3-9-022-037 (Koko Head Elementary);
- 14 (42) TMK 2-7-017-029, 2-7-017-030, 2-7-027-010, 2-7-027-022
15 (Kuhio Elementary);
- 16 (43) TMK 1-7-042-001 (Lanakila Elementary);
- 17 (44) TMK 3-2-021-035 (Liholiho Elementary);
- 18 (45) TMK 1-6-008-016, 1-6-008-021, 1-6-008-022, 1-6-008-
19 023, 1-6-008-024, 1-6-008-038, 1-6-008-058 (Likelike
20 Elementary);
- 21 (46) TMK 1-3-039-005 (Linapuni Elementary);



- 1 (47) TMK 2-3-030-052, 2-3-030-055, 2-3-030-056 (Lunalilo
- 2 Elementary);
- 3 (48) TMK 2-9-036-003 (portion) (Manoa Elementary);
- 4 (49) TMK 3-7-003-010 (portion), 3-7-003-067 (Niu Valley
- 5 Intermediate);
- 6 (50) TMK 2-9-023-023 (Noelani Elementary);
- 7 (51) TMK 2-2-043-011 (Nuuanu Elementary);
- 8 (52) TMK 3-4-002-001, 3-4-002-002 (Palolo Elementary);
- 9 (53) TMK 2-2-016-020 (Pauoa Elementary);
- 10 (54) TMK 1-2-008-001 (Puuhale Elementary);
- 11 (55) TMK 3-2-045-003 (Waialae Elementary);
- 12 (56) TMK 3-1-025-001 (Waikiki Elementary);
- 13 (57) TMK 2-3-026-001 (Washington Intermediate); and
- 14 (58) TMK 3-5-017-012 (portion) (Wilson Elementary).

15 (b) Conveyance of the parcels of land listed in subsection

16 (a) shall be effective on .

17 SECTION 5. Lands conveyed under this Act shall contain a

18 provision that shall allow the underlying fee simple interest in

19 the property to revert back to the city and county of Honolulu

20 or to the department of land and natural resources, as

21 appropriate, if the land is not used for "public educational



1 purposes". For the purpose of this Act, "public educational
2 purposes" shall include any use of the property, including
3 revenue generation, that would benefit the department of
4 education's mission to provide public education to students in
5 Hawaii.

6 SECTION 6. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 7. This Act shall take effect on July 1, 2050.



Report Title:

Transfer of Land; Department of Education; Property; Title;
Public Schools

Description:

Transfers fee interest in certain public school lands from City
and County of Honolulu and the Department of Land and Natural
Resources, as applicable, to the Department of Education.
(HB2679 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is
not legislation or evidence of legislative intent.*

