Leasing Public School Land

This act establishes a three-year pilot program to generate revenue through the lease of public school lands at up to five sites that would be used for public purposes such as workforce housing, building and retrofitting schools and the creation of more “school-centered communities.” The selection of the potential sites would be determined by the State Board of Education and all revenue generated from the pilot program would be deposited into the state’s school facilities account. The Department of Education would be tasked with providing periodic status report updates on the redevelopment projects and leasing activities.

Submitted as:
Hawaii
SB 237
Status: Signed into law on June 25, 2013.

Suggested State Legislation

(Title, enacting clause, etc.)

Section 1. [Short Title.] Related to Public School Lands.

Section 2. [Findings.]

Section 3. [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 [Insert citation] 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 [Public Agency Meetings and Records law], 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 [Insert citation], 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 4.
(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.

Section 4. [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 3 shall be deposited into the school facilities
subaccount established pursuant to section 5 (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 5 [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 [Insert citation] 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 [Insert citation]. 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
The subaccount shall be governed by section 4."

Section 6. [Reporting.]
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 [Insert year] 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 7. [Appropriations.]

Section 8. [Severability.] Insert severability clause.

Section 9. [Repealer.] Insert repealer clause.

Section 10. [Effective Date.] Insert effective date.