



STATE OF HAWAII  
HAWAII STATE PUBLIC LIBRARY SYSTEM  
OFFICE OF THE STATE LIBRARIAN  
44 MERCHANT STREET  
HONOLULU, HAWAII 96813

November 15, 2011

TO: Honorable Donald Horner, Chairperson  
Board of Education

FROM: Richard Burns, State Librarian  
Hawaii State Public Library System

A handwritten signature in blue ink that reads "Richard Burns".

SUBJECT: **Discussion/Board Action on the recommendation of the Hawaii State Public Library System's Legislative Proposals for the 2012 Hawaii State Legislature**

1. **RECOMMENDATION**

It is recommended that the Board of Education (Board) approve the Hawaii State Public Library System's (HSPLS) three (3) Legislative Draft Bills for FY 2012 Session.

2. **RECOMMENDED EFFECTIVE DATE**

Upon Legislative and Governor approval.

3. **RECOMMENDED COMPLIANCE DATE**

Upon Legislative and Governor approval.

4. **DISCUSSION**

a. Conditions leading to the recommendation

Changes to Act 51 were needed to clarify HSPLS' position as a separate State agency from the Department of Education (DOE). There was confusion as to where HSPLS fell under, especially in the areas of personnel and human resources. The intent of this bill is to clearly separate HSPLS from the DOE and to include HSPLS under

the Executive branch for all personnel, administrative, budgetary, construction, and facility matters.

Changes to Chapter 93 were to simplify and streamline distribution of state and county publications, and to address the many changes in technology to reduce printing and delivery costs.

This draft bill to amend Chapter 312 delegates many of the duties and responsibilities of the Board regarding HSPLS to the State Librarian. These include such duties as collection of fines and fees, distribution of books and periodicals among the libraries statewide, expend funds appropriated by the legislature for HSPLS, etc.

b. Previous Action of the Board on the same or similar matter

The Board has always approved HSPLS legislative requests and initiatives.

c. Other policies affected

None.

d. Arguments in support of the recommendation

Please refer to the introduction and justifications for each of our bill proposals.

e. Arguments against the recommendation

None.

f. Findings and conclusions of the Board committee

None.

g. Other agencies or departments of the State of Hawaii involved in the action

Act 51 affects both the Department of Human Resources Development, and the Department of Accounting and General Services. HRS 93 affects all state agencies and departments required to submit their publications to the State Distribution Center.

- h. Possible reaction of the public, professional organizations, unions, DOE staff and/or others to the recommendations

Favorable, especially regarding the amendments to HRS93 to simplify distribution and reduce number of print copies for all affected State agencies.

- i. Educational implication

None.

- j. Personnel implications

The changes to Act 51 will clarify that all HSPLS employees come under the state executive branch civil service system administered by the Department of Human Services and Development and not the DOE. This has been past practice for HSPLS before and after the changes to the DOE from the original Act 51.

- k. Facilities implications

None.

- l. Financial implications

None.

**5. OTHER SUPPLEMENTARY RECOMMENDATIONS**

None.

Attachments

\_\_\_\_.B. NO. \_\_\_\_\_

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# A BILL FOR AN ACT

RELATING TO THE HAWAII STATE PUBLIC LIBRARY SYSTEM.

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

1           SECTION 1. Act 51, Session Laws of Hawaii 2004, was to in  
2 part transfer the control of certain functions of executive  
3 branch agencies to the department of education to increase  
4 operational efficiency of the department while reducing  
5 bureaucracy. This Act clarifies the intent of Act 51 by  
6 amending section 46 of Act 51, Session Laws of Hawaii 2004 to  
7 confirm that all personnel in the Hawaii state public library  
8 system belong to the personnel system administered by the  
9 department of human resources development under the executive  
10 branch, and are not part of the personnel system administered by  
11 the department of education. This Act reaffirms the human  
12 resources functions currently performed by the department of  
13 human resources development for the Hawaii state public library  
14 system. These human resources functions include, but are not  
15 limited to: payroll, records, transactions, leaves, reports,  
16 recruitment, certification, examination, management,  
17 classification, and labor relations. Although the department of  
18 education and the Hawaii state public library system are

1 controlled and overseen by the board of education and function  
2 independently of the executive branch, Act 51 was silent  
3 regarding all employees of the Hawaii state public library  
4 system. After passage of Act 51, the executive branch civil  
5 service system administered by the department of human resources  
6 development continued to provide these services to all employees  
7 of the Hawaii state public library system and the Hawaii state  
8 public library system employees were not a part of or included  
9 in the department of education personnel system. The human  
10 resources functions of the Hawaii state public library system  
11 are best served by the personnel system administered by the  
12 department of human resources development under the executive  
13 branch, not the department of education administered personnel  
14 system.

15 SECTION 2. Act 51, Session Laws of Hawaii 2004, is amended  
16 by amending section 46 to read as follows:

17 "SECTION 46. (a) All the rights, powers, functions, duties,  
18 and resources of:

19 (1) The department of accounting and general services  
20 relating to capital improvement programs, including  
21 the:

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1 (A) Expending of capital improvement funds for the  
2 acquisition and development of land, the design  
3 and construction of new facilities, and the  
4 making of renovations or additions to existing  
5 facilities, including moneys in the state  
6 educational facilities improvement special fund;  
7 and

8 (B) Buying, purchasing, renting, leasing, or  
9 otherwise acquiring of any good, service, or  
10 construction, including the description of  
11 requirements, selection and solicitation of  
12 sources, preparation and awarding of contracts,  
13 payment of vendors, and all other phases of  
14 contract administration;

15 (2) The department of accounting and general services  
16 relating to repair and maintenance functions not  
17 transferred to the department of education under  
18 section 44 of this Act; and

19 (3) The department of human resources development relating  
20 to the:

21 (A) Operation of a centralized human resources system  
22 that encompasses the classes of work performed by

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1                   department of education employees, and that  
2                   integrates payroll, records, transactions,  
3                   leaves, and reports; and

4                   (B) Recruitment, certification, examination,  
5                   management, classification, and compensation of  
6                   department of education employees, including  
7                   labor relations;

8                   are transferred to the department of education effective July 1,  
9                   2005, subject to repeal by subsequent legislation.

10                  (b) All moneys budgeted in support of each position to be  
11                  transferred to the department of education, including moneys for  
12                  direct and indirect employee benefits, are transferred to the  
13                  department of education effective July 1, 2005, subject to  
14                  repeal by subsequent legislation.

15                  (c) This section does not apply to the Hawaii state public  
16                  library system and its employees."

17                  SECTION 3. New session law material is underscored.

18                  SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

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BY REQUEST

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# A BILL FOR AN ACT

RELATING TO GOVERNMENT PUBLICATIONS.

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

1           SECTION 1. Chapter 93 establishes and describes a system  
2 for distributing state and county publications. The intent of  
3 this bill is to simplify distribution in response to changes in  
4 technology and to reduce printing, workload and delivery costs  
5 for all agencies by reducing the number of print copies required  
6 by Chapter 93. The bill also stipulates that the document  
7 distribution center be notified of electronic publications by  
8 state and county agencies.

9           SECTION 2. Chapter 93, Hawaii Revised Statutes, is amended  
10 by adding a new section to be appropriately designated and to  
11 read as follows:

12           "§93- Notification when electronic publications posted.  
13 Every state and county agency shall immediately notify the state  
14 publications distribution center with identification and  
15 location information for each electronic publication made  
16 available on a public networked information system such as the  
17 internet."

1 SECTION 3. Section 93-2, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§93-2 Definitions.** [~~"Print" includes all forms of~~  
4 ~~printing and duplications, except administrative forms.]~~

5 "Publication" [~~includes any document, compilation, journal,~~  
6 ~~report, statute, regulation, ordinance issued in print by any~~  
7 ~~state or county agency, and confidential publications which~~  
8 ~~shall be deposited in accordance with security regulations to be~~  
9 ~~determined by the issuing agency]~~ means informational matter  
10 produced for public distribution or access in any tangible  
11 medium, originating or produced with the imprint of, by the  
12 authority of, or at the total or partial expense of any agency  
13 of the state or county government. It does not include manuals,  
14 calendars, schedules, correspondence, or forms intended strictly  
15 for in-house use of governmental agencies, scholarly  
16 publications of the University of Hawaii Press, and materials  
17 developed by the department of education specifically for  
18 instructional use with students.

19 "State and county agency" includes every state, city and  
20 county and county office, officer, department, board,  
21 commission, and agency, whether in the legislative, executive,  
22 or judicial branch."

1 SECTION 4. Section 93-3, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§93-3 Deposit of publications.** Every state and county  
4 agency shall immediately upon release of a publication, deposit  
5 [~~fifteen~~] seven copies with the state publications distribution  
6 center and one copy with the University of Hawaii. Additional  
7 copies of the publications shall be deposited with the  
8 publications distribution center upon request of [~~the state~~  
9 ~~librarian~~] a representative of that center so long as copies are  
10 available.

11 The state librarian may enter into depository agreements  
12 with private and public educational, historical, or scientific  
13 institutions or other libraries, within or without the State in  
14 order to achieve the objectives sought under this part."

15 SECTION 5. Section 93-11, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§93-11 Disposition of statutes and court reports.** In  
18 addition to the copies of Hawaiian statutes and supreme court  
19 reports that may be disposed of by sale, exchange, or  
20 presentation to public officers for official use, [~~not more than~~  
21 ~~fifty~~] copies of each volume may be presented to libraries of  
22 educational, historical, or scientific institutions or other

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1 libraries of a public or quasi-public nature in the State and  
2 elsewhere."

3 SECTION 6. Section 93-5, Hawaii Revised Statutes, is  
4 repealed.

5 "~~§93-5 Rules. The board of education may make such rules~~  
6 ~~as are necessary to carry out the purposes of this part.]"~~

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

9 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_

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BY REQUEST

\_\_\_\_.B. NO.\_\_\_\_

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# A BILL FOR AN ACT

RELATING TO LIBRARIES.

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

1           SECTION 1. Chapter 312, Hawaii Revised Statutes,  
2 authorizes and lists the duties and responsibilities of the  
3 state board of education. This bill will make housekeeping  
4 changes that will more accurately reflect long-standing board of  
5 education and Hawaii state public library system practice.  
6 These duties and responsibilities, which were initially assigned  
7 to the board of education, have been delegated to the state  
8 librarian and the Hawaii state public library system for many  
9 decades. This bill will also allow the state librarian to  
10 appoint the state librarian's private secretary. This secretary  
11 position was originally a permanent Secretary IV that was  
12 reclassified to a Private Secretary I effective 10/1/1983 for  
13 the state librarian at that time. This position was then  
14 abolished in 9/1/95 by the state librarian as part of the budget  
15 reductions for the Hawaii state public library system. On  
16 9/28/2001, the current state librarian established a temporary  
17 exempt position for a Private Secretary II under Act 130,  
18 Session Laws of Hawaii 2000. On 9/15/2011, the Private

1 Secretary II was finally established as a permanent exempt and  
2 excluded position. This bill will align legislation with  
3 current practice.

4 SECTION 2. Section 312-1, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 **"§312-1 Duties of the board of education.** The board of  
7 education shall care for, manage, and control all property set  
8 apart, donated, loaned to, or in any manner acquired for the use  
9 of libraries; receive, care for, expend, and account for any  
10 money which may be received for the purpose of erecting  
11 buildings for libraries or for any other purposes of the  
12 libraries [~~; collect, purchase, receive gifts of, and otherwise~~  
13 ~~acquire all books and other publications proper for libraries,~~  
14 ~~and arrange, classify, and catalogue the same; provide for their~~  
15 ~~safekeeping; expend moneys appropriated by the legislature and~~  
16 ~~otherwise acquired for the development, use, support, and~~  
17 ~~maintenance of libraries; provide ways and means for placing~~  
18 ~~libraries within reach of all residents throughout the State and~~  
19 ~~particularly of all public and private school children; provide~~  
20 ~~and maintain branch libraries, offices, or places for the~~  
21 ~~distribution of books and periodicals throughout the State; make~~  
22 ~~such contracts as may be necessary to carry into effect the~~

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1 ~~general duties herein imposed; appoint such officers and~~  
2 ~~employees as it deems necessary; and make rules for the~~  
3 ~~management and use of libraries, and for the control of the~~  
4 ~~property under its management]."~~

5 SECTION 3. Chapter 312, Hawaii Revised Statutes, is  
6 amended by adding a new section to be appropriately designated  
7 and to read as follows:

8 "§312- State librarian; appointment; duties. The state  
9 librarian shall collect, purchase, receive gifts of, and  
10 otherwise acquire all books and other publications proper for  
11 libraries, and arrange, classify, and catalogue the same;  
12 provide for their safekeeping; expend moneys appropriated by the  
13 legislature and otherwise acquired for the development, use,  
14 support, and maintenance of libraries; provide ways and means  
15 for placing libraries within reach of all residents throughout  
16 the State and particularly of all public and private school  
17 children; provide and maintain branch libraries, offices, or  
18 places for the distribution of books and periodicals throughout  
19 the State; make such contracts as may be necessary to carry into  
20 effect the general duties herein imposed; appoint such officers  
21 and employees as deemed necessary, all of whom shall be under  
22 the authority of the Governor for purposes of Chapters 76, 78,

1 89 and 89C; and make rules for the management and use of  
2 libraries, and for the control of the property under its  
3 management. The state librarian may also appoint, without  
4 regard to chapter 76, one secretary for the state librarian. The  
5 secretary for the state librarian shall serve at the pleasure of  
6 the state librarian."

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

9 "**§312-2 Powers of board; special fund.** The board of  
10 education may:

11 (1) Except as provided in section 312-3.9, make  
12 arrangements or contracts as are approved by the  
13 governor, with any county, city, association, society,  
14 person, or persons, for the purpose of benefiting the  
15 libraries and increasing their facilities and use;

16 (2) Subject to section 26-12, enter into such arrangement  
17 or contract as is approved by the governor, with the  
18 Friends of the Library of Hawaii, for the purpose of  
19 obtaining the use of books and property and income of  
20 the Friends of the Library of Hawaii;

21 (3) Cooperate by exchange and otherwise with libraries now  
22 existing or hereafter to be formed;

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1 (4) Receive, use, manage, or invest moneys or other  
2 property, real, personal, or mixed which may be given,  
3 bequeathed, devised, or in any manner received from  
4 sources other than the legislature or any federal  
5 appropriation for any or all purposes of the  
6 libraries;

7 (5) Deposit with the director of finance in a special fund  
8 all moneys donated to the board for library services;

9 (6) Unless otherwise provided for by the terms and  
10 conditions of the donation, convert, at such time as  
11 the board may at its sole discretion determine, any or  
12 all donations of property, real, personal, or mixed,  
13 into money to be deposited into the special fund; and

14 (7) Expend the moneys in the special fund in accordance  
15 with the terms and conditions of each donation for the  
16 purposes of the libraries.

17 The board shall be the trustee of the special fund and all  
18 moneys therein shall be deemed to have been appropriated to the  
19 use and for the purposes of the [~~board~~] Hawaii state public  
20 library system in providing library services. Nothing in this  
21 section shall be construed to limit the powers and duties of the  
22 board hereinbefore expressed, or to empower the board to

1 obligate the State financially in any sum which shall not have  
2 been appropriated by the legislature for the use of the board."

3 SECTION 5. Section 312-3, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§312-3 Exchange of librarians.** The [~~board of education~~]  
6 state librarian may contract for the exchange of librarians with  
7 librarians of any state, country, or territory in accordance  
8 with this section, except as otherwise provided in section  
9 78-27. Local librarians so exchanged shall be paid their  
10 regular salaries out of the funds appropriated for personal  
11 services in the library budget for the library concerned. The  
12 qualifications of all librarians from any such state, country,  
13 or territory so exchanged shall be equal to those of the local  
14 librarians exchanged. In the selection of local librarians for  
15 exchange, preference shall be given to persons born in the  
16 State. The requirements of citizenship shall not apply to any  
17 librarian coming to the State from any foreign state, country,  
18 or territory under any such contract of exchange. All  
19 librarians so exchanged shall furnish their own transportation  
20 to and from the state, country, or territory with which  
21 exchanged.

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1           No compensation shall be paid by the State to visiting  
2 exchange librarians; provided that in any case where the local  
3 exchanged librarian becomes incapacitated or, for any reason,  
4 leaves the exchanged position permanently, the library concerned  
5 may pay the visiting exchange librarian an amount not to exceed  
6 the salary rating of the local exchanged librarian, such an  
7 arrangement to continue until the end of the period of exchange  
8 or until such time as some satisfactory adjustment has been  
9 made."

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

12           "(a) The [~~board of education~~] state librarian may charge  
13 and add a fee to any amount due in accordance with [~~its~~] the  
14 state librarian's duties and powers under section [~~312-1~~] 312-  
15 \_\_\_\_ for:

16           (1) Any cost or expense incurred by the Hawaii state  
17 public library system as a result of any action taken  
18 to enforce the collection of costs of lost books and  
19 any overdue fines and fees charged to that patron  
20 after the public library system has mailed written  
21 notice demanding payment and advising that continued  
22 failure to pay the amount due may result in collection

1           action being taken, including the imposition of cost-  
2           recovery fees, not to exceed \$10, pursuant to this  
3           section. Any cost-recovery fee charged against the  
4           patron for costs, fees, and other charges may include  
5           collection agency fees, attorneys' fees, court filing  
6           fees, and similar fees incurred by the Hawaii state  
7           public library system in connection with the  
8           collection action;

9           (2) Hawaii public library system sponsored seminars or  
10           workshops, including educational materials in various  
11           media format; and

12           (3) Research and reference materials published on magnetic  
13           media, CD-ROM, or other [~~machine-readable~~] digital or  
14           electronic form."

15           SECTION 7. Section 312-4.6, Hawaii Revised Statutes, is  
16           amended by amending subsection (d) to read as follows:

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

19           (1) The charging of fees;

20           (2) The waiver of fees;

21           (3) The documents, materials, and services for which fees  
22           may be charged;

- 1           (4) The amount of the fees that may be assessed and
- 2                    charged to a library patron;
- 3           (5) The accumulated amount of lost library material costs,
- 4                    fines, or fees;
- 5           (6) The period of time that the lost library materials
- 6                    costs, fines, or fees must remain unpaid before they
- 7                    may be referred to a collection agency for collection
- 8                    pursuant to rules adopted under chapter 91; and
- 9           (7) The notification of persons with delinquent accounts
- 10                   of the additional fees to be charged by the collection
- 11                   agency prior to the referral to the collection
- 12                   agency."

13           SECTION 8. Section 312-5, Hawaii Revised Statutes, is  
14 amended to read as follows:

15           "**§312-5 Annual report to the governor.** Annually during  
16 the month of July but as of June 30 preceding, the [~~board of~~  
17 ~~education~~] state librarian shall report to the governor the  
18 moneys received from all sources and expended for all purposes  
19 during the preceding year, and any other matters pertaining to  
20 the libraries which it may deem important, or the governor may  
21 require."

