



EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

July 12, 2006

**GOV. MSG. NO. 873**

The Honorable Robert Bunda, President  
and Members of the Senate  
Twenty-Third State Legislature  
State Capitol, Room 003  
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

Re: Senate Bill No. 2708 SD2 HD1 CD1

On July 11, 2006, Senate Bill No. 2708, entitled "A Bill for an Act Relating to School Facilities" became law without my signature, pursuant to Section 16 of Article III of the Constitution of the State of Hawaii.

This bill extends through July 30, 2007 an impact fee Working Group that will assess the impacts of new housing developments on the Department of Education and examine the current method of imposing and collecting impact fees. The Working Group was supposed to issue a report to the 2006 Legislature but will now report to the 2007 Legislature.

Impact fees are a method by which State and county departments assess developers a monetary fee, or land donation, to minimize the effects the development will have on the various public services, such as transportation, roads, public schools, and sewage/water systems.

While I continue to recognize the importance of this issue and the need to have a consistent, statewide process in place, this bill raises a number of concerns similar to Act 246 of 2005. First, the measure only addresses impact fees imposed by, or collected for, the benefit of the Department of Education. There are other State and County functions that are affected by a new development, such as roadways and sanitation systems. This measure only takes into account the effect of a development on the public school system. My Administration supports developing an impact fee assessment process that addresses the full array of potential impacts on public services.

Second, this measure continues a Working Group that does not allow input and membership from other State or county departments that may be directly affected by the outcomes of the Working Group, such as the Department of Transportation, the Hawaii Public Housing Authority, the Hawaii Housing Finance and Development Corporation, the Department

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of Health, the county housing and planning/permitting departments, and the Office of the Governor.

There remains an issue of the appropriateness of placing this Working Group in the Office of the Auditor. The Legislative Auditor has not had experience in dealing with developer impact fees and fair-share contributions. Apparently she has had to contract out this work. Furthermore, the Auditor did not explain how the initial \$150,000 was spent by the Working Group and why an additional \$25,000 is necessary for this effort.

The minimum criteria for the needs assessment are outlined in the measure. However, there are vital elements missing from this needs assessment evaluation. A needs assessment should provide a clear, rationale nexus between the development and the impact fee assessed; a fair share proportion to be assessed on the developer, not a disproportionate assessment; predictability in the amount of the fee or land requested; a dedication of the funds/land assessed to be used directly in the community where the development is located; and an agreement that if the funds are not used within a reasonable amount of time, the monies should be refunded to the developer. None of these items are included in the needs assessment described in the original bill not addressed in this measure.

I support the exploration of a comprehensive statewide evaluation to examine impact fees in a transparent, fair, and equitable manner. This work is being carried out by my Administration and does not require statutory authority. Regrettably, this bill is not comprehensive enough in either the membership of the Working Group or the tasks assigned to produce a meaningful product.

For the foregoing reasons, I allowed Senate Bill No. 2708 to become law as Act 315 effective July 11, 2006 without my signature.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE

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# A BILL FOR AN ACT

RELATING TO SCHOOL FACILITIES.

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

1 SECTION 1. Section 5 of Act 246, Session Laws of Hawaii  
2 2005, is amended to read as follows:

3 "SECTION 5. This Act shall take effect [~~on~~] upon approval,  
4 provided that section 4 shall take effect July 1, 2005; and  
5 provided further that this Act shall be repealed on July 30,  
6 [~~2006-~~] 2007."

7 SECTION 2. The school impact fee working group shall  
8 submit supplemental findings and recommendations, including any  
9 proposed legislation, to the legislature no later than twenty  
10 days prior to the convening of the regular session of 2007.

11 SECTION 3. There is appropriated out of the general  
12 revenues of the State of Hawaii the sum of \$25,000, or so much  
13 thereof as may be necessary for fiscal year 2006-2007, for the  
14 operation of the school impact fee working group.

15 The sum appropriated shall be expended by the office of the  
16 auditor which shall oversee and administer any consultant  
17 contracts as may be executed on behalf of the working group for  
18 the purposes of this Act.



1 SECTION 4. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.


3 SECTION 5. This Act shall take effect on July 1, 2006, and  
4 shall be repealed on July 30, 2007.




**THE SENATE OF THE STATE OF HAWAII**

Date: May 2, 2006  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.



President of the Senate

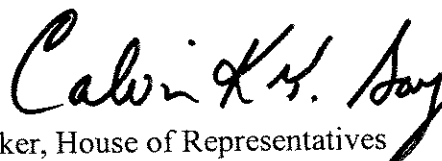


Clerk of the Senate


**THE HOUSE OF REPRESENTATIVES  
OF THE STATE OF HAWAII**

Date: May 2, 2006  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.



Speaker, House of Representatives



Clerk, House of Representatives