

JAN 25 2006

A BILL FOR AN ACT

RELATING TO SCHOOL FACILITIES.

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

1 SECTION 1. The legislature finds that:

2 (1) New residential developments create additional demand for
3 public school facilities;

4 (2) New residential developments should pay a school impact
5 fee proportionate to their impact on the need to construct
6 additional facilities; and

7 (3) A study commissioned by the department of education and
8 the department of accounting and general services has
9 identified the net capital cost of school facilities,
10 excluding land costs, that is consistent with
11 proportionate fair share principles.

12 The legislature determines that new residential developments
13 should pay school impact fees proportionate to their impacts.

14 The purpose of this Act is to require residential developments
15 to pay school impact fees.

16 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended
17 by adding a new part to be appropriately designated and to read as
18 follows:



1 **"PART . SCHOOL IMPACT FEES**

2 **§302A- Definitions.** As used in this part, the following
3 terms have the following meanings, unless the context indicates
4 otherwise:

5 "Benefit district" means one of the nine districts of the State
6 based on the State's island geography, school districts, and high
7 school attendance boundaries, as follows:

- 8 (1) Honolulu departmental school district;
- 9 (2) Central departmental school district;
- 10 (3) Windward departmental school district;
- 11 (4) Leeward departmental school district;
- 12 (5) Island of Hawaii;
- 13 (6) Island of Maui;
- 14 (7) Island of Molokai;
- 15 (8) Island of Lanai; and
- 16 (9) Island of Kauai.

17 "Building permit" shall mean the official document or
18 certificate issued by the county, authorizing the commencement of
19 construction of any building or parts thereof.

20 "County" or "counties" mean the city and county of Honolulu,
21 the county of Hawaii, the county of Kauai, and the county of Maui.



1 "Developer" means a person, corporation, organization,
2 partnership, association, or other legal entity constructing,
3 erecting, enlarging, altering, or engaging in any development
4 activity.

5 "Dwelling unit" means a room or rooms connected together,
6 constituting an independent housekeeping unit for a family
7 containing a single kitchen.

8 "Person" means an individual, firm, partnership, corporation,
9 company, association, syndicate, or any legal entity, including any
10 trustee, receiver, assignee, or other similar representative
11 thereof.

12 "School facilities" means the facilities owned or operated by
13 the department or the facilities included in the department's
14 capital budget or capital facilities plan.

15 **§302A- School impact fee; exemptions.** (a) Except as
16 provided below, any person who seeks to develop a residential
17 development by applying to any county for a building permit shall be
18 required to pay a school impact fee. Assessment of impact fees
19 shall be a condition precedent to the issuance of a building permit
20 and shall be paid in full to the department prior to the issuance of
21 the permit.

22 (b) The following shall be exempt from this section:



- 1 (1) Any form of housing permanently dedicated exclusively for
- 2 senior citizens, defined as fifty-five years of age or
- 3 over, with the necessary covenants or declarations of
- 4 restrictions recorded on the property;
- 5 (2) The alteration, expansion, enlargement, remodeling,
- 6 rehabilitation, or conversion of an existing dwelling unit
- 7 where no additional dwelling units are created;
- 8 (3) All nonresidential development; and
- 9 (4) Any residential development within the Honolulu, Windward
- 10 and Kauai benefit districts as defined in this part, until
- 11 an analysis has been prepared by the department that
- 12 demonstrates there will be a need to build or expand
- 13 school facilities over the next six-year period in order
- 14 to accommodate projected enrollment growth within the
- 15 benefit district.

16 **§302A- Assessment districts; impact fee calculation. (a)**

17 The state benefit districts shall be divided into the following

18 twenty-six geographically limited assessment districts, to be

19 adopted through administrative rules by the department:



1	<u>Assessment District</u>	<u>Benefit District</u>	<u>Cost Factor</u>
2	Honolulu	Honolulu	1.00
3	Ewa	Central	1.00
4	Wahiawa	Central	1.05
5	Waialua	Central	1.10
6	Koolaupoko	Windward	1.00
7	Koolauloa	Windward	1.10
8	Ewa	Leeward	1.00
9	Waianae	Leeward	1.10
10	Hilo	Hawaii	1.15
11	Puna	Hawaii	1.20
12	Kona	Hawaii	1.20
13	Hamakua	Hawaii	1.20
14	South Kohala	Hawaii	1.20
15	North Kohala	Hawaii	1.25
16	Pohakuloa	Hawaii	1.25
17	Kau	Hawaii	1.30
18	Wailuku	Maui	1.15
19	Makawao	Maui	1.25
20	Lahaina	Maui	1.30
21	Hana	Maui	1.35
22	Molokai	Molokai	1.30



1	Lanai	Lanai	1.35
2	Lihue	Kauai	1.15
3	Koloa	Kauai	1.20
4	Kawaihau	Kauai	1.20
5	Waimea	Kauai	1.25
6	Hanalei	Kauai	1.25

7 (b) All residential developments that are required to pay the
8 school impact fee shall pay the impact fee for each dwelling unit
9 constructed. Impact fees shall be phased in over a twenty-four-
10 month period. The fee levels after the twenty-four-month phase-in
11 period represent one-half of the full net cost.

12 Following the twenty-four-month phase-in period, the impact fee
13 for each dwelling units shall be set by administrative rule on an
14 assessment district by assessment district basis; provided that any
15 increase in any impact fee shall be reported to the legislature not
16 less than twenty days prior to the convening of the next regular
17 session of the legislature following the increase.

18 (c) Single-family detached, single-family attached, and
19 duplexes shall pay the following impact fees per dwelling unit
20 constructed, based upon the time that has elapsed from the effective
21 date of this section to the time of building permit application:



1	Benefit	Assessment		After 6	After 12	After 18	After 24
2	<u>District</u>	<u>District</u>	<u>Initially</u>	<u>months</u>	<u>months</u>	<u>months</u>	<u>months</u>
3	Honolulu	Honolulu	\$ 847	\$1,694	\$2,541	\$3,388	\$4,236
4	Central	Ewe	847	1,694	2,541	3,388	4,236
5	Central	Wahiawa	913	1,826	2,739	3,652	4,565
6	Central	Waialua	979	1,958	2,936	3,915	4,894
7	Windward	Koolaupoko	847	1,694	2,541	3,388	4,236
8	Windward	Koolauloa	979	1,958	2,936	3,915	4,894
9	Leeward	Ewa	847	1,694	2,541	3,388	4,236
10	Leeward	Waianae	979	1,958	2,936	3,915	4,894
11	Hawaii	Hue	1,045	2,089	3,134	4,178	5,223
12	Hawaii	Puna	1,111	2,221	3,332	4,442	5,553
13	Hawaii	Kona	1,111	2,221	3,332	4,442	5,553
14	Hawaii	Hamakua	1,111	2,221	3,332	4,442	5,553
15	Hawaii	South Kohala	1,111	2,221	3,332	4,442	5,553
16	Hawaii	North Kohala	1,176	2,353	3,529	4,705	5,882
17	Hawaii	Pohakuloa	1,176	2,353	3,529	4,705	5,882
18	Hawaii	Kau	1,242	2,484	3,727	4,969	6,211
19	Maui	Wailuku	1,045	2,089	3,134	4,118	5,223
20	Maui	Makawao	1,176	2,353	3,529	4,705	5,882
21	Maui	Lahaina	1,242	2,484	3,127	4,969	6,211
22	Maui	Hana	1,308	2,616	3,924	5,232	6,540



1	Molokai	Molokai	1,242	2,484	3,727	4,969	6,211
2	Lanai	Lanai	1,308	2,616	3,924	5,232	6,540
3	Kauai	Lihue	1,045	2,089	3,134	4,178	5,223
4	Kauai	Koloa	1,111	2,221	3,332	4,442	5,553
5	Kauai	Kawaihau	1,111	2,221	3,332	4,442	5,553
6	Kauai	Waimea	1,176	2,353	3,529	4,705	5,882
7	Kauai	Hanalei	1,176	2,353	3,529	4,705	5,882

8 (d) Apartments and residential condominiums, consisting of
9 more than two dwellings, shall pay the following impact fees per
10 dwelling unit constructed, based upon the time that has elapsed from
11 the effective date of this section to the time of building permit
12 application:

13	Benefit	Assessment		After 6	After 12	After 18	After 24
14	<u>District</u>	<u>District</u>	<u>Initially</u>	<u>months</u>	<u>months</u>	<u>months</u>	<u>months</u>
15	Honolulu	Honolulu	\$332	\$ 665	\$ 997	\$1,330	\$1,662
16	Central	Ewa	332	665	997	1,330	1,662
17	Central	Wahiawa	358	716	1,074	1,432	1,790
18	Central	Waialua	383	767	1,150	1,534	1,917
19	Windward	Koolaupoko	332	665	997	1,330	1,662
20	Windward	Koolauloa	383	767	1,150	1,534	1,917
21	Leeward	Ewa	332	665	997	1,330	1,662
22	Leeward	Waianae	383	767	1,150	1,534	1,917



1	Hawaii	Hilo	409	818	1,227	1,636	2,045
2	Hawaii	Puna	434	889	1,303	1,738	2,172
3	Hawaii	Kona	434	869	1,303	1,738	2,172
4	Hawaii	Hamakua	434	869	1,303	1,738	2,172
5	Hawaii	South Kohala	434	869	1,303	1,738	2,172
6	Hawaii	North Kohala	460	920	1,380	1,840	2,300
7	Hawaii	Pohakuloa	460	920	1,380	1,840	2,300
8	Hawaii	Kau	486	971	1,457	1,942	2,428
9	Maui	Wailuku	409	818	1,227	1,636	2,045
10	Maui	Makawao	460	920	1,380	1,840	2,300
11	Maui	Lahaina	486	971	1,457	1,942	2,428
12	Maui	Hana	511	1,022	1,533	2,044	2,555
13	Molokai	Molokai	486	971	1,457	1,942	2,428
14	Lanai	Lanai	511	1,022	1,533	2,044	2,555
15	Kauai	Lihue	409	818	1,227	1,636	2,045
16	Kauai	Koloa	434	869	1,303	1,738	2,172
17	Kauai	Kawaihau	434	869	1,303	1,738	2,172
18	Kauai	Waimea	460	920	1,380	1,840	2,300
19	Kauai	Hanalei	460	920	1,380	1,840	2,300

20 (e) No building permit shall be issued until the applicant for
 21 the building permit submits a certificate from the department to the



1 county issuing the building permit that the impact fee for the
2 dwelling unit has been paid to the department.

3 **§302A- School impact fee special fund; expenditures.** (a)

4 There is established a school impact fee special fund. All fees
5 collected pursuant to this part shall be deposited into the school
6 impact fee special fund.

7 (b) Moneys in the school impact fee special fund shall only be
8 used in the benefit district within which they were collected.

9 (c) Moneys in the school impact fee special fund shall be used
10 for the costs of school construction that includes, but is not
11 limited to, planning, engineering, architectural, permitting,
12 financing, and administrative expenses and any other capital
13 equipment expenses pertaining to educational facilities.

14 (d) Moneys in the school impact fee special fund shall not be
15 expended for any costs related to the acquisition of land. Moneys
16 in the school impact fee special fund shall not be expended for the
17 maintenance or operation of existing schools in the district.

18 (e) Any school impact fee shall be expended or encumbered
19 within six years of the date of collection.

20 **§302A- Refund of impact fees.** If any school impact fees
21 are not expended or encumbered within six years, the department
22 shall refund to the developer or the developer's successor in



1 interest, the amount of fees paid and any interest accrued. Fees
2 paid shall be considered expended on a first-in, first-out basis.
3 Application for a refund shall be submitted to the department within
4 one year of the date on which the right to claim arises. Any
5 unclaimed refund shall be retained in the school impact fee special
6 trust.

7 **§302A- Alternative school impact fee calculation.** (a) In
8 the event a developer believes that the impact to the school system
9 necessitated by the developer's residential construction is less
10 than the fee established in this part, the developer, prior to
11 issuance of a building permit, may submit a calculation of an
12 alternative school impact fee, including documentation submitted
13 showing the basis upon which the alternative school impact fee
14 calculation was made.

15 (b) The proposed alternative school impact fee shall be
16 submitted to the department, which shall review the calculations and
17 mail a written determination to the developer within sixty calendar
18 days.

19 (c) If the department determines that the calculation of the
20 alternative school impact fee was done by an acceptable methodology,
21 then the alternative school impact fee shall be paid in lieu of the
22 fee set forth in this part. If the department determines that the



1 calculation of the alternative school impact fee was not done by an
2 acceptable methodology, then the alternative school impact fee
3 calculation shall be rejected. The determination of the department
4 shall be final.

5 **§302A- Credits.** (a) Any developer subject to the school
6 impact fee requirements pursuant to this part may apply for credit
7 for any similar contribution, payment, or construction of public
8 school facilities accepted and received by the department for the
9 same residential development that was subject to this part. No
10 credit shall be authorized against the value of land dedicated or
11 the payment of a fee in lieu of land dedication for school facility
12 development.

13 (b) Credits for contributions, payments, or construction made
14 prior to the effective date of this section shall be provided if the
15 residential development for which the contribution, payment, or
16 construction was made has not been completed. The current owner of
17 the property for which the contribution, payment, or construction
18 was made as a condition of development approval shall file an
19 application for credit within one year of the effective date of this
20 part. If the application is not made within one year following the
21 effective date of this section, no credit shall be provided. The
22 application for credit shall be submitted and reviewed as provided



1 in this section. The amount of the credit for a contribution,
2 payment, or construction made prior to the effective date of this
3 section shall be the current value of the contribution, payment, or
4 construction, less the total amount of school impact fees that would
5 have been owed for the building permits already issued for the
6 project had those permits been subject to the fees specified in this
7 part that are to be in effect after twenty-four-months following the
8 effective date of this part. The current value shall be determined
9 using the Engineering News-Record Construction Cost Index, or an
10 equivalent index if such index is discontinued. Credits for
11 payments or contributions prior to the effective date of this
12 section shall not exceed that value of the impact fee required under
13 this section.

14 (c) A construction credit may be applied only against school
15 impact fees that would otherwise be due for building permits issued
16 within the residential development for which the payment or
17 contribution was required as a condition of development approval.
18 The department shall maintain an accounting of the amount of the
19 credit applicable to a residential development and shall reduce the
20 amount of the credit by the amount by which the school impact fees
21 that would otherwise be due are reduced for each building permit
22 issued for the residential development. After the credit balance is



1 exhausted, no additional credits shall be applied to subsequent
2 building permits issued within the residential development.

3 (d) If private construction of school facilities is proposed
4 by a developer after the effective date of this section that is
5 acceptable to the department, and the value of the proposed
6 construction exceeds the total impact fees that would be due from
7 the residential development, the department shall execute with the
8 developer an agreement to provide reimbursement for the excess
9 credit from the impact fees collected from other developers within
10 the same benefit district.

11 §302A- Rules. The department may adopt rules, pursuant to
12 chapter 91, to implement this part."

13 SECTION 3. This Act shall take effect upon its approval.

14

INTRODUCED BY: Namom Sakamph
Ray L. Hove
Thanni Chun Oalland
Russell. Kell



Report Title:

Department of Education; Impact Fees

Description:

(1) Requires developer of new residential development to pay school impact fee for each new dwelling unit built; (2) provides for fee to be phased in over 24 month period; (3) restricts use of impact fees for construction of school facilities in the benefit district where they were collected; and (4) establishes school impact fee special fund.

