

Honolulu, Hawaii

FEB 20 2009

RE: S.B. No. 733

S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Madam:

Your Committee on Education and Housing, to which was referred S.B. No. 733 entitled:

"A BILL FOR AN ACT RELATING TO EDUCATION,"

begs leave to report as follows:

The purpose of this measure is to clarify the sections of law pertaining to school impact fees to facilitate the provision of land and collection of fees for public schools.

Specifically, this measure:

- (1) Inserts the formula that calculates the amount of land developers must provide to the State for new schools, as the current law does not contain a formula and as a result, it is unclear how the calculation is made;
- (2) Eliminates language that allowed the transfer of a housing developer's excess credit to any other location in the State, pursuant to the United States Supreme Court and similar laws in other states, that the legal test of a legitimate impact fee requires fees or credits be used in the location where they are collected;
- (3) Consolidates all requirements to update data used in the analysis and calculation of school impact fees, including actual school size and cost information, construction cost increases, and updated estimates of



the amount of revenue generated by each new dwelling unit; and

- (4) Clarifies language and makes terms consistent throughout the measure, reorders procedures to reflect the order in which they occur in practice, and gathers all definitions of terms in one section.

Testimony in support of this measure was submitted by one state agency. Testimony in opposition was submitted by one state agency and four private organizations. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that Act 245, Session Laws of 2007, which established school impact fees, was the result of a two-year School Impact Fee Working Group established by the 2005 Legislature. The initial draft of Act 245 was part of the Working Group's report entitled *Hawai'i School Impact Fee Working Group Report*, prepared by consultants Duncan and Associates and Group 70 International, Inc., in March 2007. The draft legislation was then amended during the 2007 session before it was approved.

Your Committee further finds that implementation of Act 245 has shown that amendments in this measure would lead to greater efficiency and clarity for both developers and the Department of Education in meeting the requirements of the law.

Your Committee has heard a number of concerns raised regarding the proposed amendments in this measure. Your Committee understands that the interested stakeholders have had a number of discussions regarding the measure, but that consensus has not been reached. Your Committee urges the stakeholders to continue their discussions as the measure advances through the legislative process.

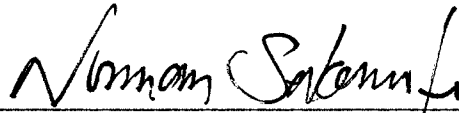
To this end, your Committee has amended this measure by:

- (1) Making technical amendments for the purposes of clarity and consistency; and
- (2) Amending the effective date to July 1, 2050, for the purpose of encouraging further discussion.



As affirmed by the record of votes of the members of your Committee on Education and Housing that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 733, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 733, S.D. 1, and be referred to the Committee on Ways and Means:

Respectfully submitted on  
behalf of the members of the  
Committee on Education and  
Housing,



NORMAN SAKAMOTO, Chair



The Senate  
Twenty-Fifth Legislature  
State of Hawaii

**Record of Votes**  
**Committee on Education and Housing**  
**EDH**

Bill / Resolution No.:* <b>SB 733</b>	Committee Referral: <b>EDH, WAM</b>	Date: <b>2-18-09</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
SAKAMOTO, Norman (C)	✓			
KIDANI, Michelle N. (VC)	✓			
CHUN OAKLAND, Suzanne	✓			
GALUTERIA, Brickwood	✓			
TSUTSUI, Shan S.				✓
HEMMINGS, Fred			✓	
<b>TOTAL</b>	<b>4</b>		<b>1</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:right; font-family: cursive; font-size: 1.2em;">Michelle N. Kidani</div>				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes