

---

---

# A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1           SECTION 1. A new method of financing in part, new or  
2 expanding existing Department of Education educational  
3 facilities in partnership with developers of new residential  
4 development, was established through Act 245, Session Laws of  
5 Hawaii 2007. The legislature finds that, to effectively  
6 implement this program of school impact fees, certain statutory  
7 amendments must be made regarding the designation of school  
8 impact districts and the formulas and practices of acquiring  
9 land and collecting fees for new or expanded public school  
10 facilities in areas in which considerable residential growth is  
11 expected.

12           The current law is also unclear regarding the formula for  
13 calculating land donations and permits the transfer of fees  
14 between designated districts, which does not meet the legal test  
15 for impact fees.

16           The purpose of this Act is to clarify and better organize  
17 the statutory provisions for school impact fees.



1 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is  
2 amended by amending part VI, subpart B, to read as follows:

3 " ~~[f]~~B. ~~[t]~~ SCHOOL IMPACT FEES

4 ~~[f]~~ §302A-1601 ~~[t]~~ **Findings.** New residential developments  
5 within ~~[identified]~~ designated school impact districts create  
6 additional demand for ~~[public]~~ school facilities. As such, once  
7 ~~[identified,]~~ school impact districts are designated, new  
8 residential developments will be required to contribute toward  
9 the construction of new or expansion of existing ~~[public]~~ school  
10 facilities through:

11 (1) The land requirement, either through ~~[an]~~ dedication  
12 of land or payment of a fee in lieu ~~[fee or actual~~  
13 ~~acreage (unless land is not required in the school~~  
14 ~~impact district),]~~ , based on each development's  
15 proportionate share of the need to provide additional  
16 school sites; and

17 (2) The construction cost requirement ~~[either]~~ through ~~[an~~  
18 ~~in lieu]~~ a fee ~~[or actual construction]~~ based on ~~[the]~~  
19 each development's proportionate share of the need to  
20 construct additional school facilities.

21 A study commissioned by the State has identified the land  
22 dedication requirement that is consistent with proportionate



1 fair-share principles and the net capital cost of school  
2 facilities, excluding land costs, that is consistent with  
3 proportionate fair-share principles.

4 The State determines that new residential developments  
5 within designated school impact districts shall provide land for  
6 schools or pay a fee in lieu of land proportionate to the  
7 impacts of the new residential development on existing school  
8 facilities. The State also determines that new residential  
9 developments within designated school impact districts shall  
10 also pay [~~school~~] construction cost component impact fees  
11 proportionate to their impacts.

12 In determining proportionate share, it is the intent that  
13 new residential developments be charged for a level of service  
14 that is equal to, and no higher than, the current level of  
15 service being provided to existing residential areas.

16 This [~~+~~]subpart[~~+~~] establishes the methodology for  
17 developers to provide their proportionate share of the land and  
18 the construction cost of new or expanded school facilities  
19 needed to serve new residential developments, as [~~determined~~]  
20 provided in [~~section~~] sections 302A-1606 and 302A-1607.



1           ~~[†]~~ §302A-1602~~[†]~~   Definitions.  As used in this  
2   ~~[†]~~subpart~~[†]~~, the following terms shall have the following  
3  meanings unless the context indicates otherwise:

4           ~~["Acres/student"]~~  "Acres per student" means the ~~[number of]~~  
5  area of land in acres required per student for a school site  
6  based on ~~[design standards for schools.]~~ the actual school site  
7  size and the design enrollment of schools constructed within  
8  approximately the last ten years.

9           "Construction cost" means the net cost to construct a  
10 school, including without limitation planning, design,  
11 engineering, grading, permits, construction, and construction  
12 and project management, but not including the cost to acquire  
13 land.  ~~[The intent of the school impact fee calculation is that~~  
14 ~~new developments should not be charged for a higher level of~~  
15 ~~service than is being provided to existing developments.  A~~  
16 ~~reasonable measure of the level of service is the percentage of~~  
17 ~~classrooms that are in permanent structures, as opposed to~~  
18 ~~portable buildings.]~~

19           "Construction cost component impact fee" means the share of  
20 the construction cost of required new or expansion of existing  
21 school facilities or both that is attributable to a specific new  
22 residential development.



1 "Cost per student" means the average construction cost for  
2 [~~a school per student (actual school construction cost)~~ schools  
3 constructed within approximately the last ten years, expressed  
4 in current dollars, divided by [enrollment capacity]. their  
5 respective design enrollments.

6 [~~"Cost/unit" means the impact fee for school construction~~  
7 ~~(land and construction).~~]

8 "County" means the city and county of Honolulu, the county  
9 of Hawaii, the county of Kauai, and the county of Maui.

10 "Design enrollment" means the maximum number of students or  
11 the student capacity that a school's permanent facilities are  
12 intended to accommodate.

13 "Developer" means a person, corporation, organization,  
14 partnership, association, or other legal entity constructing,  
15 erecting, enlarging, altering, or engaging in any residential  
16 development activity.

17 "Dwelling unit" or "unit" means a multi-family or single-  
18 family residential unit.

19 "Fee in lieu" means a fee that is paid in lieu of the  
20 dedication of land, as determined pursuant to section 302A-1606.



1 "Land component" means a fee simple property that is vacant  
2 and suitable for a school site, and improved [←]with  
3 infrastructure[→].

4 "Land component impact fee" means the share of the required  
5 school site area, the fair market value of the fee simple land  
6 area, or any combination thereof that is attributed to a  
7 specific new residential development.

8 "Level of service" means the percentage of classrooms that  
9 are in permanent structures, as opposed to portable buildings.

10 "Multi-family" means any dwelling unit other than a single-  
11 family dwelling unit.

12 [~~"Multi family unit count" means the total multi family~~  
13 ~~dwelling units planned for a proposed development.~~]

14 "New residential development" means new residential  
15 projects involving rezoned properties or parcels, current zoned  
16 parcels with or without buildings, and redevelopment projects.  
17 These projects include subdivisions and other forms of "lot  
18 only" developments (when the dwelling [unit] units will not be  
19 built by the developer), and [include] developments that include  
20 single-family and multi-family units, condominiums, and  
21 additional or accessory dwelling units as defined by each  
22 county[, and subdivisions].



1 "Owner" means the owner of record of real property or the  
2 owner's authorized agent.

3 "Proportionate share" means the pro rata share of the  
4 school impact fee attributed to the specific new residential  
5 development based on the [~~student generation rate from~~] number  
6 of units in the project.

7 "Recent school [~~construction averages~~] site area average"  
8 means the [~~department's historical~~] average [~~acres required and~~  
9 ~~enrollment capacity~~] land area provided per student for  
10 elementary (K-5), middle or intermediate (6-8), and high (9-12)  
11 schools[-] that have been constructed within approximately the  
12 last ten years. [~~Based on existing school construction data,~~  
13 ~~the historical average design standards are as follows:~~

	<u>Acres/school</u>	<u>Enrollment/school</u>	<u>Acres/student</u>
14 Elem.	<del>12.5 acres</del>	<del>800 students</del>	<del>.0156 acres</del>
15 Middle	<del>16.5 acres</del>	<del>1,500 students</del>	<del>.0110 acres</del>
16 High	<del>49 acres</del>	<del>1,600 students</del>	<del>.0306 acres]</del>

17  
18 "Revenue credit" means the present value of future state  
19 general tax revenues under chapter 237 that will be generated by  
20 [~~the~~] a new [~~residential~~] dwelling unit and used to fund  
21 capacity-expanding school capital [~~faecilities~~] improvements and



1 pay for outstanding debt on [~~existing facilities.~~] past  
2 capacity-expanding improvements.

3 "School [~~facilities~~] facility" means [~~the facilities~~] a  
4 facility owned or operated by the department, or [~~the~~  
5 ~~facilities~~] a facility included in the [~~department of education~~]  
6 department's capital budget or capital facilities plan.

7 "School impact district" means a geographic area designated  
8 by the board where anticipated [~~growth~~] new residential  
9 developments will create the need for one or more new schools or  
10 the expansion of one or more existing schools that are or will  
11 be located within the area and will primarily serve new  
12 [~~housing~~] dwelling units within the area.

13 [~~"School impact fee: construction cost component" means ten~~  
14 ~~per cent of the construction cost associated with the~~  
15 ~~construction of a new school or expansion of an existing school~~  
16 ~~facility.~~

17 [~~"School impact fee: land component" means the pro rata~~  
18 ~~share of the fair market value of the fee simple land or acreage~~  
19 ~~attributed to the specific development based on the student~~  
20 ~~generation rate from the project.]~~





1 "Single-family" means a detached dwelling unit not  
2 connected to any other dwelling unit, or a detached building  
3 containing two dwelling units.

4 [~~"Single family unit count" means the total single family~~  
5 ~~units planned for a proposed development.~~]

6 "Student generation rate" means the average number of  
7 public school students [~~generated by~~] living in each multi-  
8 family and single-family unit when a residential development has  
9 matured and enrollment per unit no longer fluctuates [~~7~~]  
10 significantly, or [~~achieves~~] has substantially achieved a steady  
11 state.

12 [~~+~~] §302A-1603 [~~+~~] **Applicability and exemptions.** (a)

13 Except as provided in subsection (b), any person who seeks to  
14 develop a new residential development within a designated school  
15 impact district requiring:

- 16 (1) A county subdivision approval;  
17 (2) A county building permit; or  
18 (3) A condominium property regime approval for the  
19 project,

20 shall be required to fulfill the land dedication or fee in lieu  
21 requirement and [~~vertical~~] construction impact fee requirement  
22 of the department.



- 1 (b) The following shall be exempt from this section:
- 2 (1) Any form of housing permanently excluding school-aged
- 3 children, with the necessary covenants or declarations
- 4 of restrictions recorded on the property;
- 5 (2) Any form of housing which is or will be paying the
- 6 transient accommodations tax under chapter 237D;
- 7 (3) All nonresidential development; and
- 8 (4) Any new residential development with an ~~executed~~
- 9 education contribution agreement or other like
- 10 document with the department for the contribution of
- 11 school sites or payment of fees for school land or
- 12 school construction~~[-]~~ that was executed prior to the
- 13 effective date of this Act.

14 ~~[+]~~ §302A-1604 ~~[+]~~ **Designation of school impact districts.**

15 (a) The board shall designate a school impact district ~~[for~~

16 ~~school impact fees]~~ only after holding at least one public

17 hearing in the area proposed for the school impact district.

18 The written analysis, prepared in accordance with subsection

19 (b), shall be made available to the public at least thirty days

20 prior to the public hearing. Notice of the public hearing shall

21 be made as provided in section 1-28.5. The notice shall include



1 a map of the proposed school impact district and the date, time,  
2 and place of the public hearing.

3 (b) Prior to the designation of a school impact district,  
4 the department shall prepare a written analysis that contains  
5 the following:

6 (1) A map and legend describing the boundaries of the  
7 school impact district area, which may range from one  
8 school to one or more high school complexes; and

9 (2) Analysis to support the need to construct new or  
10 expand existing school facilities in the school impact  
11 district area within the next twenty-five years to  
12 accommodate projected growth in the area based on  
13 various state and county land use, demographics,  
14 growth, density, and other applicable projections and  
15 plans.

16 [~~+~~]§302A-1605[~~+~~] **Impact fee analysis.** (a) Upon  
17 designation of a school impact district, the department shall  
18 prepare an impact fee analysis that shall include, at a minimum,  
19 the following:

20 (1) An analysis to determine appropriate student  
21 generation rates by housing type (multi-family [~~unit~~  
22 ~~count~~] and single-family [~~unit count~~]) for all new



1           residential developments in the school impact district  
2           area [~~. The analysis shall also consider enrollment at~~  
3           ~~existing school facilities, in and around the school~~  
4           ~~impact district,~~], which shall provide the basis for  
5           determining the steady student enrollment generated by  
6           new residential developments that will need to be  
7           accommodated;

8           ~~(2) Student generation rates, based on full build-out of~~  
9           ~~the development when student generation rates are~~  
10          ~~anticipated to be in a steady state mode (permanent~~  
11          ~~facility),~~

12          ~~(3) Analysis of the initial development period,~~ (2) An  
13          analysis to estimate the number of students generated  
14          by all new residential developments in the school  
15          impact district area at the point in time when the  
16          total student [enrollments are] enrollment from these  
17          developments is anticipated to peak [~~(to determine~~  
18          ~~capacity of facilities),~~], which shall provide the  
19          basis for determining the maximum enrollment generated  
20          by new residential developments that will need to be  
21          accommodated in both permanent facilities and portable  
22          classrooms;



1       ~~[(4)]~~ (3) An analysis to identify the current statewide  
 2           levels of service, as measured by the percentages of  
 3           existing statewide student enrollment at the  
 4           elementary school, middle or intermediate school, and  
 5           high school levels that are located in permanent  
 6           structures [~~, as opposed to~~] and in portable  
 7           buildings [~~, in surrounding high school complexes,~~

8       ~~(5) Calculation of the current statewide level of service,~~  
 9       ~~which shall be the ratio of current student capacity~~  
 10       ~~at all school levels to the current enrollment at all~~  
 11       ~~school levels,~~

12       ~~(6)] ;~~

13       (4) An analysis, including the advantages and  
 14           disadvantages, of [proposed] the potential for making  
 15           more efficient use of existing underused assets in the  
 16           school impact district through school redistricting[~~,~~  
 17           ~~listing the advantages and disadvantages by making~~  
 18           ~~more efficient use of existing underutilized assets,~~] ;

19       and

20       ~~[(7)]~~ (5) An analysis [~~of appropriate school land~~] ,  
 21           including the advantages and disadvantages, or  
 22           potential changes to statewide school site area and



1 design enrollment [capacity, which] standards that may  
2 be appropriate for application in the school impact  
3 district, which may include, for example,  
4 nontraditional [(i.e., mid rise or high rise  
5 structures)] facilities [to accommodate the need for  
6 public school facilities in high growth areas within  
7 existing urban developments; and] such as mid-rise or  
8 high-rise structures in existing urban areas where new  
9 residential development is expected to generate the  
10 need for new school construction.

11 ~~[(8) An analysis to identify the percentages of existing~~  
12 ~~student enrollment at the elementary school, middle or~~  
13 ~~intermediate school, and high school levels that are~~  
14 ~~located in permanent structures, and the percentages~~  
15 ~~that are located in portable buildings in surrounding~~  
16 ~~high school complexes.]~~

17 (b) The analyses specified in paragraphs (1) and (3) above  
18 shall be periodically updated pursuant to the provisions of  
19 section 302A-1607.5.

20 ~~[+] §302A-1606 [+] Impact fee: land component - determining~~  
21 ~~the amount of land or fee in lieu. (a) The school land area~~  
22 ~~requirements for new [school facilities] residential~~



1 developments in a school impact district shall be [determined]  
 2 based on the [recent school construction averages.] student  
 3 generation rates established pursuant to paragraph 302A-  
 4 1605(a)(1), recent school site area averages as specified in  
 5 subsection (b), and the number of dwelling units in the  
 6 development.

7 (b) Recent school site area averages for the 1997-2007  
 8 school construction period are as follows:

- 9 (1) Elementary schools: 0.0156 acre per student;
- 10 (2) Middle and intermediate schools: 0.0110 acre per  
 11 student; and
- 12 (3) High schools: 0.0306 acre per student.

13 These averages shall be periodically updated pursuant to  
 14 the provisions of section 302A-1607.5.

15 (c) The following formula shall be used to determine the  
 16 total school land area requirement for each individual new  
 17 residential development in a school impact district:

18 (elementary school student generation rate per single-  
 19 family unit) x (number of single-family units) x (recent  
 20 school site area average for elementary schools)  
 21 ±



1        (elementary school student generation rate per multi-  
2        family unit) x (number of multi-family units) x (recent  
3        school site area average for elementary schools)  
4        +  
5        (middle or intermediate school student generation rate per  
6        single-family unit) x (number of single-family units) x  
7        (recent school site area average for middle or  
8        intermediate schools)  
9        +  
10       (middle or intermediate school student generation rate per  
11       multi-family unit) x (number of multi-family units) x  
12       (recent school site area average for middle or  
13       intermediate schools)  
14       +  
15       (high school student generation rate per single-family  
16       unit) x (number of single-family units) x (recent school  
17       site area average for high schools)  
18       +  
19       (high school student generation rate per multi-family  
20       unit) x (number of multi-family units) x (recent school  
21       site area average for high schools)  
22       =





1 total school land area requirement.

2 [~~(b)~~] (d) The procedure for determining whether the  
3 dedication of land [~~is required~~] or a payment of a fee in lieu  
4 is required [~~for a new school facility~~] to satisfy the land  
5 component impact fee shall be as follows:

6 (1) A new residential development [~~of greater than or~~  
7 ~~equal to~~] with fifty or more units[~~7~~] shall include a  
8 written agreement[~~7~~] between the owner or developer of  
9 the property and the department, executed prior to  
10 [~~the issuance of a building permit, between the owner~~  
11 ~~or developer of the property and the department,~~]  
12 final subdivision approval, under which the owner or  
13 developer has:

14 (A) Agreed to designate an area to be dedicated for  
15 one or more schools for the development, subject  
16 to approval by the department; or

17 (B) Agreed to pay to the department, at a time  
18 specified in the agreement, a fee in lieu of land  
19 dedication;

20 (2) New residential developments [~~of~~] with less than fifty  
21 units shall include a written agreement[~~7~~] between the  
22 owner or the developer of the property and the



1 department, executed prior to the issuance of the  
2 building permit, under which the owner or developer  
3 has agreed to a time specified for payment [~~for~~] of  
4 the fee in lieu [~~prior to the issuance of the building~~  
5 ~~permit~~];

6 (3) Prior to approval of any [~~subdivision,~~] change of  
7 zoning, subdivision, or any other approval for a:

8 (A) [~~Residential~~] New residential development [~~equal~~  
9 ~~to or greater than~~] with fifty or more units; or

10 (B) Condominium property regime development of fifty  
11 or more units [~~or more~~],

12 the department shall notify the approving agency of  
13 its determination on whether [~~to~~] it will require the  
14 [~~dedication of~~] development to dedicate land, [~~the~~  
15 ~~payment of~~] pay a fee in lieu [~~thereof,~~], or a  
16 combination of both[+] for the provision of new school  
17 facilities;

18 [~~(4)~~] ~~When land dedication is required, the land shall be~~  
19 ~~conveyed to the State upon completion of the~~  
20 ~~subdivision improvements and any offsite~~  
21 ~~infrastructure necessary to serve the land;~~



- 1       ~~(5) When the payment of a fee in lieu is required, the fee~~  
2           ~~in lieu shall be paid based on the terms contained in~~  
3           ~~the written agreement;~~
- 4       ~~(6) Whether the department determines to require land~~  
5           ~~dedication or the payment of a fee in lieu, shall be~~  
6           ~~guided by the following criteria:~~
- 7           ~~(A) The topography, geology, access, value, and~~  
8           ~~location of the land available for dedication;~~
- 9           ~~(B) The size and shape of the land available for~~  
10           ~~dedication;~~
- 11           ~~(C) The location of existing or proposed schooling~~  
12           ~~facilities; and~~
- 13           ~~(D) The availability of infrastructure; and~~
- 14       ~~(7) The determination of the department as to whether~~  
15           ~~lands shall be dedicated or whether a fee in lieu~~  
16           ~~shall be paid, or a combination of both, shall be~~  
17           ~~final.]~~
- 18       (4) The department's determination to require land  
19           dedication or the payment of a fee in lieu, or a  
20           combination of both, shall be guided by the following  
21           criteria:



1           (A) The topography, geology, access, value, and  
2           location of the land available for dedication;

3           (B) The size and shape of the land available for  
4           dedication;

5           (C) The location of existing or proposed schooling  
6           facilities; and

7           (D) The availability of infrastructure;

8           (5) The determination of the department as to whether  
9           lands shall be dedicated or whether a fee in lieu  
10           shall be paid, or a combination of both, shall be  
11           final;

12           (6) When land dedication is required, the land shall be  
13           conveyed to the State upon completion of the  
14           subdivision improvements and any offsite  
15           infrastructure necessary to serve the land; and

16           (7) When the payment of a fee in lieu is required, the fee  
17           in lieu shall be paid based on the terms contained in  
18           the written agreement.

19           ~~[(e)]~~ (e) In determining the value per acre for any new  
20 residential development, the fee simple value of the land  
21 identified for the new or expanded school facility shall be  
22 based on the appraised fair market value of improved, vacant



1 land, zoned for residential use, and serviced by roads,  
2 utilities, and drainage. An appraiser, licensed pursuant to  
3 chapter 466K, who is selected and paid for by the developer,  
4 shall determine the value of the land. If the department does  
5 not agree with the developer's appraisal, the department may  
6 engage another licensed appraiser at its own expense, and  
7 resolve, through negotiation between the two appraisers, a fair  
8 market value. If neither party agrees, the first two appraisers  
9 shall select the third appraiser, with the cost of the third  
10 appraisal being shared equally by the department and the  
11 developer, and the third appraisal shall be binding on both  
12 parties.

13 ~~[(d) The developer or owner of new residential~~  
14 ~~developments of greater than fifty units shall either pay the in~~  
15 ~~lieu fee based on the land value as determined in subsection (c)~~  
16 ~~or convey appropriate acreage as determined in subsection (b).~~  
17 ~~When conveying the fee simple interest for the new or expanded~~  
18 ~~school facility, the developers shall be credited the difference~~  
19 ~~between the fair market fee simple value of the property and the~~  
20 ~~developers' proportionate share of the value of the land as~~  
21 ~~determined in subsection (c) against any impact fees for~~  
22 ~~construction. Any excess may be transferred and used as credit~~



1 ~~against any future land or construction cost requirements on any~~  
 2 ~~other development of the State.~~

3 ~~(e)]~~ (f) The dollar amount of the fee in lieu shall be  
 4 determined using the following formula:

5 Acres of land [~~ealculated according~~] subject to the fee in  
 6 lieu as determined pursuant to subsection [~~(b)]~~ (d)  
 7 multiplied by the value per acre of land determined pursuant  
 8 to subsection [~~(e).]~~ (e).

9 [†]§302A-1607[‡] **Impact fee: construction cost component**  
 10 **- determining the** [~~cost per unit.~~] amount of the fee. (a) The  
 11 construction cost component of the school impact [~~fees shall be~~  
 12 ~~ealculated using the following factors:~~

13 ~~(1) For new school construction, the cost per student for~~  
 14 ~~each school type (elementary, middle or intermediate,~~  
 15 ~~and high school) is based on the ten year average~~  
 16 ~~construction of a new school facility using the~~  
 17 ~~Honolulu assessment district in 2006 as the base.~~  
 18 ~~Costs for construction completed earlier than 2006~~  
 19 ~~shall be escalated to 2006 using the engineering news-~~  
 20 ~~record construction cost index;]~~

21 fee requirement for new residential developments in a school  
 22 impact district shall be based on:



1        (1) The student generation rates established pursuant to  
2                    paragraph 302A-1605 (a) (1) ;

3        (2) Recent public school construction costs per student as  
4                    provided in subsection (b) ;

5        (3) The statewide percentages of students in permanent  
6                    school facilities within the school impact district as  
7                    determined pursuant to paragraph 302A-1605(a) (3) ;

8        (4) The cost factors for the twenty-six geographically  
9                    limited cost districts as provided in subsection (c) ;  
10                   and

11       (5) The number of single-family and multi-family dwelling  
12                   units in the development.

13       (b) The construction cost component impact fee shall be  
14 based on recent public school construction costs. The 1997-2007  
15 period school construction costs per student, adjusted for both  
16 the year 2007 and for the Honolulu assessment district, are as  
17 follows:

18       (1) Elementary schools: \$35,357 per student;

19       (2) Middle and intermediate schools: \$36,097 per student;  
20                   and

21       (3) High schools: \$64,780 per student.



1        The costs per student for other assessment districts shall  
 2 be determined by multiplying the Honolulu assessment district  
 3 costs per student by the applicable cost factor in subsection  
 4 (c). These costs per student shall be updated at least every  
 5 three years, pursuant to the provisions in section 302A-1607.5.

6        (c) The state shall be divided into twenty-six  
 7 geographically limited cost districts identified below, and the  
 8 cost factors listed below for each cost district shall be  
 9 applied to the calculation of school construction costs per unit  
 10 pursuant to subsection (d):

11	<u>Cost District</u>	<u>School District</u>	<u>Cost Factor</u>
12	<u>Honolulu</u>	<u>Honolulu</u>	<u>1.00</u>
13	<u>Ewa</u>	<u>Leeward/Central</u>	<u>1.00</u>
14	<u>Wahiawa</u>	<u>Central</u>	<u>1.05</u>
15	<u>Waialua</u>	<u>Central</u>	<u>1.10</u>
16	<u>Koolaupoko</u>	<u>Windward</u>	<u>1.00</u>
17	<u>Koolauloa</u>	<u>Windward</u>	<u>1.00</u>
18	<u>Waianae</u>	<u>Leeward</u>	<u>1.10</u>
19	<u>Hilo</u>	<u>Hawaii</u>	<u>1.15</u>
20	<u>Puna</u>	<u>Hawaii</u>	<u>1.20</u>
21	<u>Kona</u>	<u>Hawaii</u>	<u>1.20</u>
22	<u>Hamakua</u>	<u>Hawaii</u>	<u>1.20</u>





1	<u>South Kohala</u>	<u>Hawaii</u>	<u>1.20</u>
2	<u>North Kohala</u>	<u>Hawaii</u>	<u>1.25</u>
3	<u>Pohakuloa</u>	<u>Hawaii</u>	<u>1.25</u>
4	<u>Kau</u>	<u>Hawaii</u>	<u>1.30</u>
5	<u>Wailuku</u>	<u>Maui</u>	<u>1.15</u>
6	<u>Makawao</u>	<u>Maui</u>	<u>1.25</u>
7	<u>Lahaina</u>	<u>Maui</u>	<u>1.30</u>
8	<u>Hana</u>	<u>Maui</u>	<u>1.35</u>
9	<u>Molokai</u>	<u>Molokai</u>	<u>1.30</u>
10	<u>Lanai</u>	<u>Lanai</u>	<u>1.35</u>
11	<u>Lihue</u>	<u>Kauai</u>	<u>1.15</u>
12	<u>Koloa</u>	<u>Kauai</u>	<u>1.20</u>
13	<u>Kawaihau</u>	<u>Kauai</u>	<u>1.20</u>
14	<u>Waimea</u>	<u>Kauai</u>	<u>1.25</u>
15	<u>Hanalei</u>	<u>Kauai</u>	<u>1.25</u>

16       (d) The school construction costs per unit for single-  
 17 family and multi-family housing shall be calculated separately  
 18 for each school impact district using the formula provided below  
 19 and based on:

20       (1) Student generation rates are as determined in  
 21       paragraph 302A-1605(a)(1);

22       (2) Costs per student are as determined in subsection (b);



- 1        (3) Statewide percentages of students in permanent  
 2        buildings are as determined in paragraph 302A-  
 3        1605(a)(3); and  
 4        (4) Cost district factors are as provided in subsection  
 5        (c).

6        The formula, to be determined separately for single-family and  
 7        multi-family units, is as follows:

$$\begin{aligned}
 & \text{(elementary school student generation rate per unit) x} \\
 & \text{(elementary school cost per student) x (statewide} \\
 & \text{percentage of existing elementary school students in} \\
 & \text{permanent buildings) x (cost district factor)} \\
 & + \\
 & \text{(middle or intermediate school student generation rate per} \\
 & \text{unit) x (middle or intermediate school cost per student) x} \\
 & \text{(statewide percentage of existing middle or intermediate} \\
 & \text{school students in permanent buildings) x (cost district} \\
 & \text{factor)} \\
 & + \\
 & \text{(high school student generation rate per unit) x (high} \\
 & \text{school cost per student) x (statewide percentage of} \\
 & \text{existing high school students in permanent buildings) x} \\
 & \text{(cost district factor)}
 \end{aligned}$$



1       =  
 2       school construction cost per unit.

3       (e) School construction costs used in the determination of  
 4 impact fees shall be reduced by any portion of the revenue  
 5 credit per unit that exceeds ninety per cent of the school  
 6 construction costs per unit. Where revenue credits per unit are  
 7 less than ninety per cent of school construction costs per unit,  
 8 no credit shall be given. The revenue credit per unit figures  
 9 that are to be used in determining the amount of any such  
 10 revenue credit shall be as follows:

11       (1) Single-family dwelling unit: \$2,786; and

12       (2) Multi-family dwelling unit: \$1,428.

13       (f) The construction cost component impact fee for each  
 14 new residential development in a school impact district shall be  
 15 ten per cent of the school construction costs attributable to  
 16 that development, as calculated according to the following  
 17 formula:

18       (cost per single-family unit from subsection (d)) - (cost  
 19 reduction per single-family unit from subsection (e), if  
 20 applicable) x (number of single-family units) x 0.10;

21       +



1        (cost per multi-family unit from subsection (d)) - (cost  
 2        reduction per multi-family unit from subsection (e), if  
 3        applicable) x (number of multi-family units) x 0.10  
 4        =  
 5        construction cost component impact fee.

6        [~~2~~ For] (g) If the only improvements needed in a school  
 7        impact district involve the expansion of existing school  
 8        facilities, the cost per student for each school type  
 9        (elementary, middle or intermediate, and high school) [~~is~~] shall  
 10       be based on the [~~ten-year average~~] construction [~~of costs~~] costs  
 11       averaged over the preceding ten years for whatever [~~components~~]  
 12       building components are required to expand the existing school  
 13       [~~using the Honolulu assessment district in 2006 as the base,~~].  
 14       The department shall conduct an analysis to determine the  
 15       average construction costs over the preceding ten years per  
 16       student for the required building components at such time as  
 17       this subsection becomes applicable.

18       All or a portion of the new residential development's  
 19       construction cost component impact fee for expansion of existing  
 20       school facilities shall be determined pursuant to subsections  
 21       (d), (e), and (f) by substituting the cost of the existing  
 22       school facility requiring expansion on a per student basis for



1 the school construction cost on a per student basis where  
2 applicable.

3 ~~[(3) The cost per student in other assessment districts~~  
4 ~~shall be the cost per student in the Honolulu~~  
5 ~~assessment district multiplied by the appropriate cost~~  
6 ~~factor in subsection (c). At least every three years,~~  
7 ~~the department shall update the cost per student based~~  
8 ~~on the construction of a new permanent school~~  
9 ~~facility, and present the written analysis to the~~  
10 ~~board for review; and~~

11 ~~(4) Student generation rates, as defined in section~~  
12 ~~302A-1602.~~

13 ~~(b) The student generation rate for each school type~~  
14 ~~(elementary, middle or intermediate, and high school) shall be~~  
15 ~~multiplied by the cost per student for each school type~~  
16 ~~(elementary, middle or intermediate, and high school) to~~  
17 ~~determine the cost/unit in the development.~~

18 ~~(c) The State shall be divided into the following twenty-~~  
19 ~~six geographically limited cost districts:~~

20	<del>Cost District</del>	<del>School District</del>	<del>Cost Factor</del>
21	<del>Honolulu</del>	<del>Honolulu</del>	<del>1.00</del>
22	<del>Ewa</del>	<del>Leeward/Central</del>	<del>1.00</del>
23	<del>Wahiawa</del>	<del>Central</del>	<del>1.05</del>
24	<del>Waialua</del>	<del>Central</del>	<del>1.10</del>



1	Koolaupoko	Windward	1.00
2	Koolaulea	Windward	1.00
3	Waianae	Leeward	1.10
4	Hilo	Hawaii	1.15
5	Puna	Hawaii	1.20
6	Kona	Hawaii	1.20
7	Hamakua	Hawaii	1.20
8	South Kohala	Hawaii	1.20
9	North Kohala	Hawaii	1.25
10	Pohakuloa	Hawaii	1.25
11	Kau	Hawaii	1.30
12	Wailuku	Maui	1.15
13	Makawao	Maui	1.25
14	Lahaina	Maui	1.30
15	Hana	Maui	1.35
16	Molokai	Molokai	1.30
17	Lanai	Lanai	1.35
18	Lihue	Kauai	1.15
19	Koloa	Kauai	1.20
20	Kawaihau	Kauai	1.20
21	Waimea	Kauai	1.25
22	Hanalei	Kauai	1.25

23 ~~(d) At least every three years, and concurrent with any~~  
 24 ~~update of the costs per student, the department shall update the~~  
 25 ~~revenue credits and present the written analysis to the board~~  
 26 ~~for review. The calculation of revenue credits shall be~~  
 27 ~~reviewed and calculated recognizing that the impact fee shall be~~  
 28 ~~set at one hundred per cent of the fair market value of the land~~  
 29 ~~and ten per cent of the total school construction cost.~~

30 ~~(e) The construction cost component of the impact fees per~~  
 31 ~~dwelling unit shall be ten per cent of the amounts calculated~~  
 32 ~~according to the following formula:~~

33 ~~Cost per dwelling unit from [subsection (b)] minus any~~  
 34 ~~amount by which the revenue credit per dwelling unit~~  
 35 ~~from subsection (d) exceeds ninety per cent of the per~~  
 36 ~~unit construction cost.~~



1       ~~(f)~~ (h) The amount of the fee shall be ~~increased~~  
2 adjusted from the date it was determined to the date it is paid  
3 using the engineering news-record construction cost index, or an  
4 equivalent index if that index is discontinued.

5       ~~(g) Any new residential development shall be required to~~  
6 ~~obtain a~~ (i) A written agreement shall be executed between the  
7 owner or developer of the property and the department~~]~~ prior  
8 to the issuance of a building permit, under which the owner or  
9 developer has agreed to a time specified for payment~~]~~ of  
10 its ~~[school impact fee]~~ construction cost component ~~[prior to~~  
11 ~~the issuance of the building permit.]~~ impact fee.

12       §302A-1607.5 Use of data reflecting recent conditions in  
13 impact fee calculations. (a) Every three years, beginning in  
14 2010, the department shall concurrently update the following:

- 15       (1) School site area averages provided in section 302A-  
16       1606(b);
- 17       (2) Elementary, middle or intermediate, and high school  
18       school facility construction costs per student  
19       provided in section 302A-1607(b); and
- 20       (3) Revenue credit per unit figures provided in section  
21       302A-1607(e).



1        (b) Every three years following their initial  
2 determination pursuant to section 302A-1605, the department  
3 shall update the following:

- 4        (1) Student generation rates for each established school  
5        impact district; and  
6        (2) The statewide percentages of students in permanent  
7        structures and portable classrooms.

8        (c) Every three years beginning in 2010, the department  
9 shall, where appropriate, update the list of cost factors for  
10 the twenty-six geographically enumerated cost districts, as  
11 provided in section 302A-1607(c), by incorporating any changes  
12 to these cost factors that have been made by the department of  
13 accounting and general services.

14        (d) In the event any of the above data updates are not  
15 completed within the specified time, the current data shall be  
16 used until such time as the update is completed.

17        ~~[§302A-1608]~~ **Accounting and expenditure requirements.**

18        (a) Each designated school impact district shall be a separate  
19 benefit district. Fees collected within each school impact  
20 district shall be spent only within the same school impact  
21 district ~~[for the purposes collected]~~.





1 (b) Land dedicated by the developer shall be used only as  
2 a site for the construction of one or more new schools or for  
3 the expansion of existing school facilities[-] servicing the  
4 school impact district.

5 (c) If the land is [~~never~~] not used for [~~the~~] a school  
6 facility[-] within twenty years of its dedication, it shall be  
7 returned to the developer, or the developer's successor in  
8 interest.

9 (d) Once used[-] for school facilities, all or part of the  
10 land may later be sold[-with the proceeds] in the event that  
11 the school facilities located thereon are no longer needed.  
12 Proceeds from this sale shall only be used to acquire land for  
13 or construct other school facilities in the same school impact  
14 district.

15 [~~e~~] (e) Fee in lieu funds may be used for school site  
16 land acquisition and related expenses [~~related to acquiring a~~  
17 ~~piece of land~~], including [~~but not limited to~~] surveying,  
18 appraisals, and legal fees. Fee in lieu funds may also be used  
19 for construction costs where the department determines that  
20 there is no foreseeable future need for acquiring additional  
21 land for a new school site or an existing school site expansion  
22 in the school impact district. Such funds shall not be used for



1 the maintenance or operation of existing schools in the  
2 district, [~~construction costs, including architectural,~~  
3 ~~permitting, or financing costs,~~] or for administrative expenses.

4 [~~(d) Impact~~] (f) Construction cost component impact fees  
5 [for the construction cost component] shall generally be used  
6 for the construction of new school facilities. However, they  
7 may be used for school site land acquisition where the  
8 department determines that there is a greater need.

9 (g) When used for construction, such funds shall be used  
10 only for the costs of new school facilities that [expands]  
11 expand the student capacity of existing schools or [adds] add  
12 student capacity in new schools. [School impact fees may not be  
13 used to replace an existing school located within the same  
14 school impact district, either on the same site or on a  
15 different site.] Eligible construction costs include planning,  
16 engineering, architectural, permitting, financing, and  
17 administrative expenses, and any other capital equipment  
18 expenses pertaining to educational facilities.

19 (h) Construction cost component impact fees shall not be  
20 expended for:

21 (1) The maintenance or operation of existing schools in  
22 the district;



- 1           (2) Portable or temporary facilities; or
- 2           (3) The replacement of an existing school located within  
3           the same school impact district, either on the same  
4           site or on a different site.
- 5           (i) In the event of closure, demolition, or conversion of  
6 an existing permanent department facility within a school impact  
7 district that has the effect of reducing student capacity, an  
8 amount of new student capacity in permanent buildings equivalent  
9 to the lost capacity shall be funded with ~~[non school]~~ other  
10 than school impact fee ~~[revenue.]~~ revenues. ~~[Eligible~~  
11 ~~construction costs include but are not limited to planning,~~  
12 ~~engineering, architectural, permitting, financing, and~~  
13 ~~administrative expenses, and any other capital equipment~~  
14 ~~expenses pertaining to educational facilities. Impact fees for~~  
15 ~~the construction cost component shall not be expended for:~~
- 16           ~~(1) Any costs related to the acquisition of land;~~  
17           ~~(2) The maintenance or operation of existing schools in~~  
18           ~~the district; or~~
- 19           ~~(3) Portable or temporary facilities.~~
- 20           ~~(e) Impact fees and fees]~~ (j) Fees in lieu of land  
21 dedication, proceeds from the sale of all or part of an existing  
22 school site that had been dedicated by a developer pursuant to



1 the requirements of this subpart, and construction cost  
2 component impact fees shall be expended or encumbered within  
3 twenty years of the date of collection. Fees shall be  
4 considered spent or encumbered on a first-in, first-out basis.  
5 An expenditure plan for ~~the~~ all collected impact fees shall be  
6 incorporated into the annual budget process of the department  
7 and subject to legislative approval of the budget.

8 ~~[+] §302A-1609 [.]~~ **Refunds ~~[.]~~ of Fees.** If ~~the~~ a fee in  
9 lieu of land dedication or a construction cost component impact  
10 fee is not expended within twenty years of the date of  
11 collection, the department shall either:

- 12 (1) Refund to the developer, or the developer's successor  
13 in interest, the amount of the fee ~~in lieu~~ paid and  
14 any interest accrued thereon; or  
15 (2) Recommit a portion or all of the fees for another  
16 twenty-year period for construction of new schools in  
17 the school impact district, as authorized by the  
18 developer or the developer's successor.

19 ~~[+] §302A-1610 [.]~~ **Credits for excess land dedication.** (a)  
20 Any ~~person~~ owner of a new residential development subject to  
21 the land ~~dedication~~ component impact fee requirements pursuant  
22 to this ~~[.] subpart [.]~~ ~~may apply for credit against any similar~~



1 ~~dedication or payment accepted and received by the department~~  
2 ~~for the project.]~~ who dedicates more land for school facilities  
3 than is required for that development shall receive credit for  
4 the excess dedicated land area.

5 (b) The credit may be applied to the land component impact  
6 fee requirement for any future new residential development by  
7 the same owner in the same school impact district, or with  
8 written approval of the owner of the credit, to any future new  
9 residential development by a different owner in the same school  
10 impact district.

11 ~~[(b)]~~ (c) Any credit provided for under this section shall  
12 be based on the value~~[7]~~ determined in the manner provided under  
13 section 302A-1606.

14 ~~[(c) Excess credits]~~ (d) Credits for land [contributions]  
15 dedications made prior to [July 3, 2007] the effective date of  
16 this Act that are in excess of a developer's requirement under  
17 this subpart shall be based on the determined value~~[7]~~ of the  
18 excess dedication, provided that the credit amount shall not  
19 exceed the value of the dedication or fee in lieu required under  
20 this [f] subpart [f].

21 (e) In addition to or instead of applying such credits to  
22 future new residential developments, the department may execute



1 with an owner of such credits an agreement to provide for  
 2 partial or full reimbursement from the school impact fee  
 3 payments collected from other developers within the same school  
 4 impact district. Such reimbursements shall not exceed the  
 5 amount of the fee revenues available in the account for that  
 6 school impact district.

7 ~~[+]~~ §302A-1611 ~~[+]~~ Credits for excess contributions and  
 8 advance payment of required construction cost component impact  
 9 fees. (a) Any ~~[applicant]~~ owner of a new residential  
 10 development subject to the ~~[school]~~ construction cost component  
 11 impact fee requirements pursuant to this ~~[+]~~subpart ~~[+]~~may apply  
 12 ~~for~~ shall receive credit for any ~~[similar]~~ private construction  
 13 or monetary contribution~~[, payment, or]~~ toward the construction  
 14 of ~~[public]~~ school facilities that is accepted and received by  
 15 the department~~[-]~~ for the development and is in excess of the  
 16 impact fee required under this subpart for that development.  
 17 For the purposes of this section, the private construction of  
 18 school facilities is a "public work" pursuant to chapter 104.  
 19 ~~[No credit shall be authorized against the impact fees in lieu~~  
 20 ~~of land dedication.]~~  
 21 (b) ~~[A credit may be applied only against school impact~~  
 22 ~~fees that would otherwise be due for new residential~~



1 ~~developments for which the payment or contribution was agreed to~~  
2 ~~in a written educational contribution agreement.]~~ Any excess  
3 contribution credit may be applied to the construction cost  
4 component impact fee requirement for any future new residential  
5 development by the same owner in the same school impact  
6 district, or with the written approval of the owner of the  
7 credit, to any future new residential development by a different  
8 owner in the same school impact district.

9 (c) In addition to or instead of applying the excess  
10 contribution credit to future new residential developments, the  
11 department may execute with an owner of the credit an agreement  
12 to provide for partial or full reimbursement from the impact fee  
13 payments collected from other developers within the same school  
14 impact district. The reimbursements shall not exceed the amount  
15 of the impact fee revenues available in the account for that  
16 school impact district.

17 (d) Any owner of a new residential development shall  
18 receive credit for any part of its required construction cost  
19 component impact fee that, with the approval of the department,  
20 is paid in advance of the time specified in the written  
21 agreement executed in accordance with the provisions of section  
22 302A-1607(i). The department shall maintain an accounting of



1 the amount of the credit applicable to the new residential  
2 development and shall reduce the amount of the credit by the  
3 amount of the [~~school~~] impact fees that would otherwise be due  
4 for each building permit issued for the new residential  
5 development. After the credit balance is exhausted, no  
6 additional credits shall be applied to subsequent building  
7 permits issued within the new residential development.

8 ~~[(c) If private construction of school facilities is  
9 proposed by a developer after July 3, 2007, if the proposed  
10 construction is acceptable to the department, and if the value  
11 of the proposed construction exceeds the total impact fees that  
12 would be due from the development, the department shall execute  
13 with the developer an agreement to provide reimbursement for the  
14 excess credit from the impact fees collected from other  
15 developers within the same benefit district. For the purposes  
16 of this section, the private construction of school facilities  
17 is a "public work" pursuant to chapter 104.]~~

18 SECTION 3. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

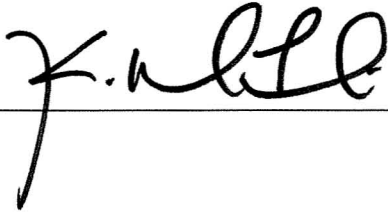




1 SECTION 4. This Act shall take effect upon its approval.

2

INTRODUCED BY:

  
\_\_\_\_\_

JAN 27 2009



**Report Title:**

School Impact Fees

**Description:**

Clarifies and better organizes the statutory provisions for school impact fees.

