
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 the
2 expansion of 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 serving areas in which considerable residential
11 growth is 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 "[+]B.[+] SCHOOL IMPACT FEES

4 [{"§302A-1601"}] **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~~] single-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:~~

14	Aeres/school	Enrollment/school	Aeres/student
15	Elem. 12.5 acres	800 students	.0156 acres
16	Middle 16.5 acres	1,500 students	.0110 acres
17	High 49 acres	1,600 students	.0306 acres]

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 [~~facilities~~] 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~~] or 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 or serving the
11 school impact district area within the next twenty-
12 five years to accommodate projected growth in the area
13 based on various state and county land use,
14 demographics, growth, density, and other applicable
15 projections and 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,]~~

13 (2) An analysis to estimate the number of students
14 generated by all new residential developments in the
15 school impact district area at the point in time when
16 the total student [enrollments are] enrollment from
17 these developments is anticipated to peak ~~[-to~~
18 ~~determine capacity of facilities)];~~], which shall
19 provide the basis for determining the maximum
20 enrollment generated by new residential developments
21 that will need to be accommodated in both permanent
22 facilities and portable 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)] (4) An analysis, including the advantages and
13 disadvantages, of [proposed] the potential for making
14 more efficient use of existing underused assets in the
15 school impact district through school redistricting[
16 ~~listing the advantages and disadvantages by making~~
17 ~~more efficient use of existing underutilized assets;]~~
18 and
- 19 ~~[(7)]~~ (5) An analysis ~~[of appropriate school land],~~
20 including the advantages and disadvantages, or
21 potential changes to statewide school site area and
22 design enrollment [capacity, which] standards that may



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

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

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

19 **[+]§302A-1606[+] Impact fee: land component - determining**
20 **the amount of land or fee in lieu.** (a) The school land area
21 requirements for new [~~school facilities~~] residential
22 developments in a school impact district shall be [~~determined~~]



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

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

8 (1) Elementary schools: 0.0156 acre per student;

9 (2) Middle and intermediate schools: 0.0110 acre per
10 student; and

11 (3) High schools: 0.0306 acre per student.

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

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

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

20 +



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~~[,]~~ shall include a
8 written agreement~~[,]~~ 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~~[,]~~ 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 [~~calculated 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 ~~calculated 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 schools
 7 servicing a school impact district involve the expansion of
 8 existing school facilities, the cost per student for each school
 9 type (elementary, middle or intermediate, and high school) [is]
 10 shall be based on the [ten-year average construction of whatever
 11 components] construction costs averaged over the preceding ten
 12 years for whatever building components are required to expand
 13 the existing school [using the Honolulu assessment district in
 14 2006 as the base,]. The department shall conduct an analysis to
 15 determine the average construction costs over the preceding ten
 16 years per student for the required building components at such
 17 time as 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	Cost District	School District	Cost Factor
21	Honolulu	Honolulu	1.00
22	Ewa	Leeward/Central	1.00



1	Wahiawa	Central	1.05
2	Waialua	Central	1.10
3	Koolaupoko	Windward	1.00
4	Koolauloa	Windward	1.00
5	Waianae	Leeward	1.10
6	Hilo	Hawaii	1.15
7	Puna	Hawaii	1.20
8	Kona	Hawaii	1.20
9	Hamakua	Hawaii	1.20
10	South Kohala	Hawaii	1.20
11	North Kohala	Hawaii	1.25
12	Pohakuloa	Hawaii	1.25
13	Kau	Hawaii	1.30
14	Wailuku	Maui	1.15
15	Makawao	Maui	1.25
16	Lahaina	Maui	1.30
17	Hana	Maui	1.35
18	Molokai	Molokai	1.30
19	Lanai	Lanai	1.35
20	Lihue	Kauai	1.15
21	Koloa	Kauai	1.20
22	Kawaihau	Kauai	1.20



1 Waimea Kauai 1.25

2 Hanalei Kauai 1.25

3 ~~(d) At least every three years, and concurrent with any~~
4 ~~update of the costs per student, the department shall update the~~
5 ~~revenue credits and present the written analysis to the board~~
6 ~~for review. The calculation of revenue credits shall be~~
7 ~~reviewed and calculated recognizing that the impact fee shall be~~
8 ~~set at one hundred per cent of the fair market value of the land~~
9 ~~and ten per cent of the total school construction cost.~~

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

13 ~~Cost per dwelling unit from [subsection (b)] minus any~~
14 ~~amount by which the revenue credit per dwelling unit~~
15 ~~from subsection (d) exceeds ninety per cent of the per~~
16 ~~unit construction cost.~~

17 ~~(f)]~~ (h) The amount of the fee shall be [~~increased~~]
18 adjusted from the date it was determined to the date it is paid
19 using the engineering news-record construction cost index, or an
20 equivalent index if that index is discontinued.

21 ~~[(g) Any new residential development shall be required to~~
22 ~~obtain a] (i) A written agreement shall be executed between the~~



1 owner or developer of the property and the department~~[7]~~ prior
2 to the issuance of a building permit, under which the owner or
3 developer has agreed to a time specified for payment~~[7 for its~~
4 ~~school impact fee]~~ of its construction cost component ~~[prior to~~
5 ~~the issuance of the building permit.]~~ impact fee.

6 **§302A-1607.5 Use of data reflecting recent conditions in**
7 **impact fee calculations.** (a) Every three years, beginning in
8 2010, the department shall concurrently update the following:

- 9 (1) School site area averages provided in section 302A-
10 1606(b);
- 11 (2) Elementary, middle or intermediate, and high school
12 school facility construction costs per student
13 provided in section 302A-1607(b); and
- 14 (3) Revenue credit per unit figures provided in section
15 302A-1607(e).

16 (b) Every three years following their initial
17 determination pursuant to section 302A-1605, the department
18 shall update the following:

- 19 (1) Student generation rates for each established school
20 impact district; and
- 21 (2) The statewide percentages of students in permanent
22 structures and portable classrooms.



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

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

10 ~~[+]~~ **\$302A-1608** ~~[+]~~ **Accounting and expenditure requirements.**

11 (a) ~~[Each]~~ Schools serving each designated school impact
12 district shall be a separate benefit district. Fees collected
13 within each school impact district shall be spent only ~~[within]~~
14 on schools serving the same school impact district ~~[for the~~
15 ~~purposes collected]~~.

16 (b) Land dedicated by the developer shall be used only as
17 a site for the construction of one or more new schools or for
18 the expansion of existing school facilities~~[r]~~ serving the
19 school impact district.

20 (c) If the land is ~~[never]~~ not used for ~~[the]~~ a school
21 facility~~[r]~~ within twenty years of its dedication, it shall be



1 returned to the developer, or the developer's successor in
2 interest.

3 (d) Once used~~[7]~~ for school facilities, all or part of the
4 land may later be sold~~[7, with the proceeds]~~ in the event that
5 the school facilities located thereon are no longer needed.
6 Proceeds from this sale shall only be used to acquire land for
7 or construct other school facilities ~~[in]~~ serving the same
8 school impact district.

9 ~~[(e)]~~ (e) Fee in lieu funds may be used for school site
10 land acquisition and related expenses ~~[related to acquiring a~~
11 piece of land], including ~~[but not limited to]~~ surveying,
12 appraisals, and legal fees. Fee in lieu funds may also be used
13 for construction costs where the department determines that
14 there is no foreseeable future need for acquiring additional
15 land for a new school site or an existing school site expansion
16 that serves the school impact district. Such funds shall not be
17 used for the maintenance or operation of existing schools in the
18 district, ~~[construction costs, including architectural,~~
19 permitting, or financing costs,] or for administrative expenses.

20 ~~[(d) Impact]~~ (f) Construction cost component impact fees
21 ~~[for the construction cost component]~~ shall generally be used
22 for the construction of new school facilities. However, they



1 may be used for school site land acquisition where the
2 department determines that there is a greater need.

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

13 (h) Construction cost component impact fees shall not be
14 expended for:

- 15 (1) The maintenance or operation of existing schools in
16 the district;
17 (2) Portable or temporary facilities; or
18 (3) The replacement of an existing school located within
19 the same school impact district, either on the same
20 site or on a different site.

21 (i) In the event of closure, demolition, or conversion of
22 an existing permanent department facility within a school impact



1 district that has the effect of reducing student capacity, an
2 amount of new student capacity in permanent buildings equivalent
3 to the lost capacity shall be funded with ~~[non-school]~~ other
4 than school impact fee ~~[revenue.]~~ revenues. ~~[Eligible~~
5 ~~construction costs include but are not limited to planning,~~
6 ~~engineering, architectural, permitting, financing, and~~
7 ~~administrative expenses, and any other capital equipment~~
8 ~~expenses pertaining to educational facilities. Impact fees for~~
9 ~~the construction cost component shall not be expended for:~~
10 ~~(1) Any costs related to the acquisition of land;~~
11 ~~(2) The maintenance or operation of existing schools in~~
12 ~~the district; or~~
13 ~~(3) Portable or temporary facilities.~~
14 ~~(e) Impact fees and fees]~~ (j) Fees in lieu of land
15 dedication, proceeds from the sale of all or part of an existing
16 school site that had been dedicated by a developer pursuant to
17 the requirements of this subpart, and construction cost
18 component impact fees shall be expended or encumbered within
19 twenty years of the date of collection. Fees shall be
20 considered spent or encumbered on a first-in, first-out basis.
21 An expenditure plan for ~~[the]~~ all collected impact fees shall be



1 incorporated into the annual budget process of the department
2 and subject to legislative approval of the budget.

3 ~~[+]§302A-1609[+]~~ **Refunds**~~[+]~~ of fees. If ~~[the]~~ a fee in
4 lieu of land dedication or a construction cost component impact
5 fee is not expended within twenty years of the date of
6 collection, the department shall either:

- 7 (1) Refund to the developer, or the developer's successor
8 in interest, the amount of the fee ~~[in lieu]~~ paid and
9 any interest accrued thereon; or
10 (2) Recommit a portion or all of the fees for another
11 twenty-year period for construction of new schools
12 ~~[in]~~ servicing the school impact district, as authorized
13 by the developer or the developer's successor.

14 ~~[+]§302A-1610[+]~~ **Credits for excess land dedication.** (a)
15 Any ~~[person]~~ owner of a new residential development subject to
16 the land ~~[dedication]~~ component impact fee requirements pursuant
17 to this ~~[+]subpart[+]~~ ~~may apply for credit against any similar~~
18 ~~dedication or payment accepted and received by the department~~
19 ~~for the project.]~~ who dedicates more land for school facilities
20 than is required for that development shall receive credit for
21 the excess dedicated land area.



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

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

10 [~~(c) Excess credits~~] (d) Credits for land [contributions]
11 dedications made prior to [July 3, 2007] _____, 2009, that are
12 in excess of a developer's requirement under this subpart shall
13 be based on the determined value[+] of the excess dedication,
14 provided that the credit amount shall not exceed the value of
15 the dedication or fee in lieu required under this [~~+~~]subpart[~~+~~].

16 (e) In addition to or instead of applying such credits to
17 future new residential developments, the department may execute
18 with an owner of such credits an agreement to provide for
19 partial or full reimbursement from the school impact fee
20 payments collected from other developers within the same school
21 impact district. Such reimbursements shall not exceed the



1 amount of the fee revenues available in the account for that
2 school impact district.

3 ~~[+]§302A-1611[+]~~ **Credits for excess contributions and**
4 **advance payment of required construction cost component impact**
5 **fees.** (a) Any ~~[applicant]~~ owner of a new residential
6 development subject to the ~~[school]~~ construction cost component
7 impact fee requirements pursuant to this ~~[+]subpart[+]~~ may apply
8 ~~for]~~ shall receive credit for any [similar] private construction
9 or monetary contribution[, payment, or] toward the construction
10 of [public] school facilities that is accepted and received by
11 the department[-] for the development and is in excess of the
12 impact fee required under this subpart for that development.
13 For the purposes of this section, the private construction of
14 school facilities is a "public work" pursuant to chapter 104.
15 ~~[No credit shall be authorized against the impact fees in lieu~~
16 ~~of land dedication.]~~

17 (b) ~~[A credit may be applied only against school impact~~
18 ~~fees that would otherwise be due for new residential~~
19 ~~developments for which the payment or contribution was agreed to~~
20 ~~in a written educational contribution agreement.]~~ Any excess
21 contribution credit may be applied to the construction cost
22 component impact fee requirement for any future new residential



1 development by the same owner in the same school impact
2 district, or with the written approval of the owner of the
3 credit, to any future new residential development by a different
4 owner in the same school impact district.

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

13 (d) Any owner of a new residential development shall
14 receive credit for any part of its required construction cost
15 component impact fee that, with the approval of the department,
16 is paid in advance of the time specified in the written
17 agreement executed in accordance with the provisions of section
18 302A-1607(i). The department shall maintain an accounting of
19 the amount of the credit applicable to the new residential
20 development and shall reduce the amount of the credit by the
21 amount of the [~~school~~] impact fees that would otherwise be due
22 for each building permit issued for the new residential



1 development. After the credit balance is exhausted, no
2 additional credits shall be applied to subsequent building
3 permits issued within the new residential development.

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

14 SECTION 3. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 4. The revisor of statutes shall insert the
17 effective date of this Act in subsection 302A-1610(d) in section
18 2 of this Act.

19 SECTION 5. This Act shall take effect upon its approval.



Report Title:

School Impact Fees

Description:

Clarifies and better organizes the statutory provisions for school impact fees. (HB1431 HD1)

