
A BILL FOR AN ACT

RELATING TO EDUCATION.

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

1 SECTION 1. The legislature finds that to implement a
2 program of school impact fees, established by Act 245, Session
3 Laws of Hawaii 2007, certain amendments need to be made to the
4 sections of law creating school impact districts and to the
5 formulas and practices for providing land and collecting fees
6 for new or expanded school facilities in areas expecting a large
7 amount of residential growth.

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

11 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§302A- Use of data reflecting recent conditions in
15 impact fee calculations. (a) Every three years beginning in
16 2010, the department shall concurrently update the following:

17 (1) School site area averages calculated pursuant to
18 section 302A-1606(b);



1 (2) Elementary, middle or intermediate, and high school
2 permanent facility construction costs per student, as
3 provided under section 302A-1607; and

4 (3) Revenue credit per unit figures provided pursuant to
5 section 302A-1607(e).

6 (b) Every three years following the initial determinations
7 made pursuant to section 302A-1605, the department shall update
8 the following:

9 (1) Student generation rates for each established school
10 impact district; and

11 (2) Percentages of students enrolled at the elementary
12 school, middle or intermediate school, and high school
13 levels statewide that are located in permanent
14 structures and portable classrooms.

15 (c) Every three years beginning in 2010, the department
16 shall, where appropriate, update the list of cost factors for
17 the twenty-six geographically limited cost districts, as
18 provided in section 302A-1607(d), by incorporating any changes
19 to the cost factors that have been made by the department of
20 accounting and general services.



1 (d) If any data update required by this section is not
2 completed within the specified time, the most current data shall
3 be used until the update is completed."

4 SECTION 3. Chapter 302A, part VI, subpart B, Hawaii
5 Revised Statutes, is amended by amending its title to read as
6 follows:

7 "[+]B. [+] SCHOOL IMPACT FEES"

8 SECTION 4. Section 302A-1601, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[+]§302A-1601[+] Findings. New residential developments
11 within identified school impact districts create additional
12 demand for public school facilities. As such, once school
13 impact districts are identified, new residential developments
14 [~~will~~] shall be required to contribute toward the construction
15 of new or expansion of existing public school facilities
16 through:

17 (1) The land requirement, either through an in lieu fee or
18 actual acreage (unless land is not required in the
19 school impact district) [7], based on each new
20 residential development's proportionate share of the
21 need to provide additional public school sites; and



1 (2) The construction requirement either through an in lieu
2 fee or actual construction based on [~~the~~] each new
3 residential development's proportionate share of the
4 need to construct additional facilities.

5 A study commissioned by the State has identified the land
6 dedication requirement that is consistent with proportionate
7 fair-share principles and the net capital cost of school
8 facilities, excluding land costs, that is consistent with
9 proportionate fair-share principles.

10 The State determines that new residential developments
11 within designated school impact districts shall provide land for
12 schools or pay a fee in lieu of land proportionate to the
13 impacts of the new residential development on existing school
14 facilities. The State also determines that new residential
15 developments within designated school impact districts shall
16 also pay school construction cost component impact fees
17 proportionate to their impacts.

18 In determining the amounts of land component impact fees
19 and construction cost component impact fees, the intent of the
20 school impact fee calculations is that new residential
21 developments should not be charged for a higher level of service
22 than is being charged to existing developments.



1 This [f]subpart [f] establishes the methodology for
2 developers to provide their proportionate share of the land and
3 the construction cost of new or expanded school facilities
4 needed to serve new residential developments, as determined in
5 ~~[section 302A-1607.]~~ sections 302A-1606 and 302A-1607,
6 respectively."

7 SECTION 5. Section 302A-1602, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[f]§302A-1602 [f] Definitions. As used in this
10 [f]subpart [f], the following terms shall have the following
11 meanings unless the context indicates otherwise:

12 [~~"Acres/student"~~] "Acres per student" means the [~~number of~~]
13 area of land in acres required per student for a school site
14 based on design standards for schools[-], which may include the
15 actual school site size and the design enrollment of schools
16 constructed within approximately the last ten years.

17 "Construction cost" means the net cost to construct a
18 school, including without limitation, planning, design,
19 engineering, grading, permits, construction, and construction
20 and project management, but not including the cost to acquire
21 land. [~~The intent of the school impact fee calculation is that~~
22 new developments should not be charged for a higher level of



1 ~~service than is being provided to existing developments. A~~
2 ~~reasonable measure of the level of service is the percentage of~~
3 ~~classrooms that are in permanent structures, as opposed to~~
4 ~~portable buildings.]~~

5 "Construction cost component impact fee" means ten per cent
6 of the share of the construction cost for the required new
7 school, the expansion of existing school facilities that is
8 attributable to a specific development, or both.

9 "Cost per student" means the [~~construction cost for a~~
10 ~~school per student (actual school construction cost divided by~~
11 ~~enrollment capacity).] average of actual school construction
12 costs, expressed in current dollars, divided by the respective
13 design enrollments, for schools constructed within approximately
14 the last ten years.~~

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

17 "County" means the city and county of Honolulu, the county
18 of Hawaii, the county of Kauai, and the county of Maui.

19 "Department" means the department of education.

20 "Design enrollment" means the maximum number of students,
21 or student capacity, a permanent school facility is designed to
22 accommodate.



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

5 "Dwelling unit" or "unit" means a multi-family or single-
6 family residential unit.

7 "Fee in lieu" means a fee determined pursuant to section
8 302A-1606[-] that is paid in lieu of the dedication of land.

9 "Land component" means a fee simple property that is
10 vacant, suitable for a school site, and improved [+]
11 infrastructure[+].

12 "Land component impact fee" means the share of the required
13 school site area, the fair market value of the fee simple land
14 area, or any combination thereof that is attributed to a
15 specific development.

16 "Level of service" means the percentage of classrooms that
17 are located in permanent structures, but not including
18 classrooms located in portable buildings.

19 "Multi-family" means any dwelling unit other than a single
20 family dwelling unit.

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



1 "New residential development" means new residential
2 projects involving rezoned properties or parcels, current zoned
3 parcels with or without buildings, and redevelopment projects.
4 These projects include subdivisions and other forms of "lot
5 only" developments (when the dwelling [~~unit~~] units will not be
6 built by the developer), and [~~include~~] developments that include
7 single-family and multi-family units, condominiums, and
8 additional or accessory dwelling units as defined by each
9 county[~~, and subdivisions~~].

10 "Owner" means the owner of record of real property or the
11 owner's authorized agent.

12 "Proportionate share" means the pro rata share of the
13 school impact fee attributed to the specific development based
14 on the [~~student generation rate from~~] number of units in the
15 project.

16 "Recent school [~~construction~~] site area averages" means the
17 department's historical average acres required and enrollment
18 capacity for elementary (K-5), middle (6-8), and high (9-12)
19 schools. Based on [~~existing~~] historic school construction data,
20 the [~~historical average design standards~~] initial site area
21 averages are as follows:



	[Acres/school	Enrollment/school	Acres/student]
	<u>Land Area/school</u>	<u>Enrollment/school</u>	<u>Land Area/student</u>
3	Elem. 12.5 acres	800 students	.0156 acres
4	Middle 16.5 acres	1,500 students	.0110 acres
5	High 49 acres	1,600 students	.0306 acres

6 "Revenue credit" means the state general tax revenues under
7 chapter 237 that will be generated by ~~[the]~~ a new ~~[residential]~~
8 dwelling unit and used to fund school capital facilities and pay
9 for outstanding debt on existing facilities.

10 "School facilities" means the facilities owned or operated
11 by the department, or the facilities included in the department
12 of education capital budget or capital facilities plan.

13 "School impact district" means a geographic area designated
14 by the board where an anticipated ~~[growth]~~ new residential
15 development will create the need for one or more new schools or
16 the expansion of one or more existing schools that are or will
17 be located within the area and will primarily serve new
18 ~~[housing]~~ dwelling units within the area.

19 ~~["School impact fee: construction cost component" means ten~~
20 ~~per cent of the construction cost associated with the~~
21 ~~construction of a new school or expansion of an existing school~~
22 ~~facility.~~



1 ~~"School impact fee: land component" means the pro rata~~
2 ~~share of the fair market value of the fee simple land or acreage~~
3 ~~attributed to the specific development based on the student~~
4 ~~generation rate from the project.]~~

5 "Single-family" means a detached dwelling unit not
6 connected to any other dwelling unit, or a detached building
7 containing two dwelling units.

8 "Single-family unit count" means the total single-family
9 units planned for a proposed development.

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

15 SECTION 6. Section 302A-1603, Hawaii Revised Statutes, is
16 amended to read as follows:

17 " [4] §302A-1603 [4] **Applicability and exemptions.** (a)
18 Except as provided in subsection (b), any person who seeks to
19 develop a new residential development within a designated school
20 impact district requiring:

- 21 (1) A county subdivision approval;
22 (2) A county building permit; or



1 (3) A condominium property regime approval for the
2 project,
3 shall be required to fulfill the land dedication or fee in lieu
4 requirement and [~~vertical~~] construction cost component impact
5 fee requirement of the department.

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

7 (1) Any form of housing permanently excluding school-aged
8 children, with the necessary covenants or declarations
9 of restrictions recorded on the property;

10 (2) Any form of housing [~~which~~] that is or will be paying
11 the transient accommodations tax under chapter 237D;

12 (3) All nonresidential development; and

13 (4) Any development with an executed education
14 contribution agreement or other like document with the
15 department for the contribution of school sites or
16 payment of fees for school land or school
17 construction."

18 SECTION 7. Section 302A-1604, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 "(b) Prior to the designation of a school impact district,
21 the department shall prepare a written analysis that contains
22 the following:

- 1 (1) A map and legend describing the boundaries of the
2 proposed school impact district area, which may range
3 from one school to one or more high school
4 complexes[+], as well as maps and legends describing
5 surrounding districts and school enrollments at
6 existing school facilities in and around the school
7 impact district; and
- 8 (2) Analysis to support the need to construct new or
9 expand existing school facilities in the proposed
10 school impact district area within the next twenty-
11 five years to accommodate projected growth in the area
12 based on various state and county land use,
13 demographics, growth, density, and other applicable
14 historical data projections and plans."

15 SECTION 8. Section 302A-1605, Hawaii Revised Statutes, is
16 amended to read as follows:

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

- 21 (1) An analysis to determine appropriate student
22 generation rates by housing type (multi-family [~~unit~~



1 ~~count and single-family unit count) for new~~
2 ~~developments in the area.] and single-family) for all~~
3 new residential developments in the school impact
4 district area. This will provide the basis for
5 determining the steady state enrollment generated by
6 new residential developments that will need to be
7 accommodated. The analysis shall also consider
8 enrollment at existing school facilities, in and
9 around the school impact district;

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

14 [~~(3) Analysis of the initial development period, when~~
15 ~~student enrollments are anticipated to peak (to~~
16 ~~determine capacity of facilities);]~~

17 (3) An analysis to estimate the number of students
18 generated by all new developments in the school impact
19 district area at the point in time when the total
20 enrollment from these developments is anticipated to
21 peak. This information is not required for or related
22 to the determination of the impact fee; however, this



1 will provide the basis for determining the maximum
2 enrollment generated by new residential developments
3 that will need to be accommodated in both permanent
4 facilities and portable buildings;

5 (4) An analysis to identify the percentages of existing
6 statewide student enrollment at the elementary school,
7 middle or intermediate school, and high school levels
8 that are located in permanent structures, as opposed
9 to portable buildings [~~, in surrounding high school~~
10 ~~complexes]~~;

11 (5) Calculation of the current statewide level of
12 service [~~, which shall be the ratio of current student~~
13 ~~capacity at all school levels to the current~~
14 ~~enrollment at all school levels]~~;

15 ~~(6) An analysis of proposed redistricting, listing the~~
16 ~~advantages and disadvantages by making more efficient~~
17 ~~use of existing underutilized assets;~~

18 ~~(7) An analysis of appropriate school land area and~~
19 ~~enrollment capacity, which may include nontraditional~~
20 ~~(i.e., mid rise or high rise structures) facilities to~~
21 ~~accommodate the need for public school facilities in~~



1 ~~high growth areas within existing urban developments,~~

2 ~~and~~

3 ~~(8) An analysis to identify the percentages of existing~~
4 ~~student enrollment at the elementary school, middle or~~
5 ~~intermediate school, and high school levels that are~~
6 ~~located in permanent structures, and the percentages~~
7 ~~that are located in portable buildings in surrounding~~
8 ~~high school complexes.]~~

9 (6) An analysis including the advantages and disadvantages
10 of making more efficient use of existing or underused
11 assets in the school impact district through school
12 redistricting; and

13 (7) An analysis including the advantages and disadvantages
14 of potential changes to statewide school site areas
15 and design enrollment standards that may be
16 appropriate for application in the particular school
17 impact district. This may include, for example, non-
18 traditional facilities such as mid-rise or high-rise
19 structures in existing urban areas where new
20 residential developments are expected to generate the
21 need for new school construction.



1 (b) The analyses specified in paragraphs (1), (2), and (4)
2 shall be periodically updated pursuant to section 302A- ."

3 SECTION 9. Section 302A-1606, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~[+] §302A-1606 [+~~ Impact fee ~~[+]~~; land component ~~[-]~~;
6 determining the amount of land or fee in lieu. (a) The school
7 land area requirements for new [school facilities shall be
8 determined based on the recent school construction averages.]
9 residential developments in a school impact district shall be
10 based on recent school site area averages, student generation
11 rates, and the number of dwelling units in the development.

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

15 Elementary school student generation rate
16 per single-family unit (x) number of single-
17 family units (x) recent average elementary
18 school site area per student;

19 plus (+)

20 Elementary school student generation rate
21 per multi-family unit (x) number of multi-

1 family units (x) recent average elementary
2 school site area per student;

3 plus (+)

4 Middle or intermediate school student
5 generation rate per single-family unit (x)
6 number of single-family units (x) recent
7 average middle or intermediate school site
8 area per student;

9 plus (+)

10 Middle or intermediate school student
11 generation rate per multi-family unit (x)
12 number of multi-family units (x) recent
13 average middle or intermediate school site
14 area per student;

15 plus (+)

16 High school student generation rate per
17 single-family unit (x) number of single-
18 family units (x) recent average high school
19 site area per student;

20 plus (+)

21 High school student generation rate per
22 multi-family unit (x) number of multi-family



1 units (x) recent average high school site
2 area per student;

3 equals (=)

4 Total school land requirement.

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

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

18 (A) Agreed to designate an area to be dedicated for
19 one or more schools for the development, subject
20 to approval by the department; or



1 (B) Agreed to pay to the department, at a time
2 specified in the agreement, a fee in lieu of land
3 dedication;

4 (2) [New] A new residential [developments of] development
5 with less than fifty units shall include a written
6 agreement [7] between the owner or the developer of the
7 property and the department, executed prior to the
8 issuance of the building permit, under which the owner
9 or developer has agreed to a time specified for
10 payment for the fee in lieu [prior to the issuance of
11 the building permit];

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

14 (A) Residential development [~~equal to or greater than~~
15 ~~fifty]~~ with fifty or more units; or

16 (B) Condominium property regime development of fifty
17 or more units [or more],

18 the department shall notify the approving agency of
19 its determination on whether [~~to require the~~
20 ~~dedication of land, the payment of]~~ it will require
21 the development to dedicate land, pay a fee in lieu



1 thereof, or a combination of both~~[7]~~ for the provision
2 of new school facilities;

3 ~~[-(4) When land dedication is required, the land shall be~~
4 ~~conveyed to the State upon completion of the~~
5 ~~subdivision improvements and any offsite~~
6 ~~infrastructure necessary to serve the land;~~

7 ~~-(5) When the payment of a fee in lieu is required, the fee~~
8 ~~in lieu shall be paid based on the terms contained in~~
9 ~~the written agreement;~~

10 ~~-(6) Whether the department determines to require land~~
11 ~~dedication or the payment of a fee in lieu, shall be~~
12 ~~guided by the following criteria.]~~

13 (4) The department's determination to require land
14 dedication or the payment of a fee in lieu, or a
15 combination of both, shall be guided by the following
16 criteria:

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

19 (B) The size and shape of the land available for
20 dedication;

21 (C) The location of existing or proposed schooling
22 facilities; and



1 (D) The availability of infrastructure; [~~and~~
2 ~~(7)] (5) The determination of the department as to whether
3 lands shall be dedicated or whether a fee in lieu
4 shall be paid, or a combination of both, shall be
5 final ~~[]~~;~~

6 (6) When land dedication is required, the land shall be
7 conveyed to the State upon completion of the
8 subdivision improvements and any offsite
9 infrastructure necessary to serve the land; and

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

13 ~~[(e)]~~ (d) In determining the value per acre for any new
14 residential development, the fee simple value of the land
15 identified for the new or expanded school facility shall be
16 based on the appraised fair market value of improved, vacant
17 land, zoned for residential use, and serviced by roads,
18 utilities, and drainage. An appraiser, licensed pursuant to
19 chapter 466K, who is selected and paid for by the developer,
20 shall determine the value of the land. If the department does
21 not agree with the developer's appraisal, the department may
22 engage another licensed appraiser at its own expense, and



1 resolve, through negotiation between the two appraisers, a fair
2 market value. If neither party agrees, the first two appraisers
3 shall select the third appraiser, with the cost of the third
4 appraisal being shared equally by the department and the
5 developer, and the third appraisal shall be binding on both
6 parties.

7 ~~[(d)]~~ (e) The developer or owner of new residential
8 developments of greater than fifty units shall either pay the
9 ~~[in lieu]~~ fee in lieu based on the land value as determined in
10 subsection ~~[(e)]~~ (d) or convey appropriate acreage as determined
11 in subsection (b). When conveying the fee simple interest for
12 the new or expanded school facility, the developers shall be
13 credited the difference between the fair market fee simple value
14 of the property and the developers' proportionate share of the
15 value of the land as determined in subsection ~~[(e)]~~ (d) against
16 any impact fees for construction. Any excess may be transferred
17 and used as credit against any future land or construction cost
18 requirements on any other development of the State.

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

21 Acres of land ~~[calculated according to]~~ subject to the fee
22 in lieu, as determined under subsection ~~[(b)]~~ (c) multiplied



1 by the value per acre of land determined pursuant to
2 subsection ~~[(e)-]~~ (d)."

3 SECTION 10. Section 302A-1607, Hawaii Revised Statutes, is
4 amended to read as follows:

5 " ~~[+]§302A-1607 [+] Impact fee [+-];~~ construction cost
6 component ~~[-];~~ determining the [cost per unit.] amount of the
7 fee. (a) The construction cost component of the school impact
8 fees shall be calculated using the following factors:

- 9 (1) For new school construction, the cost per student for
10 each school type (elementary, middle or intermediate,
11 and high school) is based on the ten-year average
12 construction of a new school facility using the
13 Honolulu assessment district in 2006 as the base.
14 Costs for construction completed earlier than 2006
15 shall be escalated to 2006 using the engineering news-
16 record construction cost index;
- 17 (2) For expansion of existing school facilities, the cost
18 per student for each school type (elementary, middle
19 or intermediate, and high school) is based on the ten-
20 year average construction of whatever components are
21 required to expand the school using the Honolulu
22 assessment district in 2006 as the base;



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

9 (4) Student generation rates, as defined in section
10 302A-1602.

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

17 (c) The construction cost component impact fee shall be
18 based on recent public school construction costs. The 1997 to
19 2007 period school construction costs per student, adjusted for
20 both the year 2007 and for the Honolulu assessment district, are
21 as follows:



- 1 (1) Elementary schools: \$35,357 per student;
 2 (2) Middle and intermediate schools: \$36,097 per student;
 3 and
 4 (3) High schools: \$64,780 per student.

5 The costs per student for other assessment districts shall be
 6 determined by multiplying the Honolulu assessment district costs
 7 per student by the applicable cost factor in subsection (d).
 8 These costs per student shall be updated at least every three
 9 years, pursuant to the provisions in section 302A- .

10 [~~e~~] (d) The State shall be divided into the following
 11 twenty-six geographically limited cost districts[+], and the
 12 cost factors listed for each cost district shall be applied to
 13 the calculation of school construction costs per unit pursuant
 14 to subsection (c):

15	Cost District	School District	Cost Factor
16	Honolulu	Honolulu	1.00
17	Ewa	Leeward/Central	1.00
18	Wahiawa	Central	1.05
19	Waialua	Central	1.10
20	Koolaupoko	Windward	1.00
21	Koolauloa	Windward	1.00
22	Waianae	Leeward	1.10
23	Hilo	Hawaii	1.15
24	Puna	Hawaii	1.20
25	Kona	Hawaii	1.20
26	Hamakua	Hawaii	1.20
27	South Kohala	Hawaii	1.20
28	North Kohala	Hawaii	1.25
29	Pohakuloa	Hawaii	1.25



1	Kau	Hawaii	1.30
2	Wailuku	Maui	1.15
3	Makawao	Maui	1.25
4	Lahaina	Maui	1.30
5	Hana	Maui	1.35
6	Molokai	Molokai	1.30
7	Lanai	Lanai	1.35
8	Lihue	Kauai	1.15
9	Koloa	Kauai	1.20
10	Kawaihau	Kauai	1.20
11	Waimea	Kauai	1.25
12	Hanalei	Kauai	1.25

13
14 ~~[(d)]~~ (e) At least every three years, and concurrent with
15 any update of the costs per student, the department shall update
16 the revenue credits and present the written analysis to the
17 board for review. The calculation of revenue credits shall be
18 reviewed and calculated recognizing that the impact fee shall be
19 set at one hundred per cent of the fair market value of the land
20 and ten per cent of the total school construction cost.

21 ~~[(e)]~~ (f) The construction cost component of the impact
22 fees per dwelling unit shall be ten per cent of the amounts
23 calculated according to the following formula:

24 Cost per dwelling unit from ~~[(f)]~~ subsection (b) ~~[(f)]~~ minus
25 any amount by which the revenue credit per dwelling
26 unit from subsection ~~[(d)]~~ (e) exceeds ninety per cent
27 of the per unit construction cost.



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

12 SECTION 11. Section 302A-1608, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "~~[(f)]~~ §302A-1608 ~~[(f)]~~ **Accounting and expenditure requirements.**

15 (a) Each designated school impact district shall be a separate
16 benefit district. Fees collected within each school impact
17 district shall be spent only within the same school impact
18 district for the purposes collected.

19 (b) Land dedicated by the developer shall be used only as
20 a site for the construction of one or more new schools or for
21 the expansion of existing school facilities. If the land is
22 never used for the school facility, it shall be returned to the



1 developer, or the developer's successor in interest. Once used,
2 the land may be sold, with the proceeds used to acquire land for
3 school facilities in the same school impact district ~~[-]~~ servicing
4 the school impact district.

5 (c) If the land is not used for a school facility within
6 twenty years of its dedication, it shall be returned to the
7 developer, or the developer's successor in interest.

8 (d) Once used for school facilities, all or part of the
9 land may be later sold. Proceeds from this sale shall be used
10 to acquire land for school facilities in the same school impact
11 district.

12 ~~[-(e)]~~ (e) Fee in lieu funds may be used for [expenses
13 ~~related to acquiring a piece of land,]~~ school site land
14 acquisition and related expenses, including [but not limited to]
15 surveying, appraisals, and legal fees. Fee in lieu funds shall
16 not be used for the maintenance or operation of existing schools
17 in the district, construction costs, including architectural,
18 permitting, or financing costs, or for administrative expenses.

19 ~~[-(f)]~~ (f) Impact fees for the construction cost component
20 shall be used only for the costs of new school facilities that
21 expands the student capacity of existing schools or adds student
22 capacity in new schools. School impact fees may not be used to



1 replace an existing school located within the same school impact
2 district, either on the same site or on a different site. [~~In~~
3 ~~the event of closure, demolition, or conversion of an existing~~
4 ~~permanent department facility within a school impact district~~
5 ~~that has the effect of reducing student capacity, an amount of~~
6 ~~new student capacity in permanent buildings equivalent to the~~
7 ~~lost capacity shall be funded with non school impact fee~~
8 ~~revenue. Eligible construction costs include but are not~~
9 ~~limited to planning, engineering, architectural, permitting,~~
10 ~~financing, and administrative expenses, and any other capital~~
11 ~~equipment expenses pertaining to educational facilities. Impact~~
12 ~~fees for the construction cost component shall not be expended~~
13 ~~for:~~

- 14 ~~(1) Any costs related to the acquisition of land;~~
15 ~~(2) The maintenance or operation of existing schools in~~
16 ~~the district; or~~
17 ~~(3) Portable or temporary facilities.~~
18 ~~(e) Impact fees and fees in lieu]~~

19 (g) Eligible construction costs include planning,
20 engineering, architectural, permitting, financing, and
21 administrative expenses, and any other capital equipment
22 expenses pertaining to educational facilities.



1 (h) Construction cost component impact fees shall not be
2 expended for:

3 (1) The maintenance or operation of existing schools in
4 the district; or

5 (2) Portable or temporary facilities.

6 (i) If a closure, demolition, or conversion of an existing
7 permanent department facility within a school impact district
8 that has the effect of reducing student capacity occurs, an
9 amount of new student capacity in permanent buildings equivalent
10 to the lost capacity shall not be funded with school impact fee
11 revenue.

12 (j) Fees in lieu of land dedication, proceeds from the
13 sale of all or part of an existing school site that has been
14 dedicated by a developer pursuant to the requirements of this
15 subpart, and construction cost component impact fees shall be
16 expended or encumbered within twenty years of the date of
17 collection. Fees shall be considered spent or encumbered on a
18 first-in, first-out basis. An expenditure plan for [the] all
19 collected impact fees shall be incorporated into the annual
20 budget process of the department and subject to legislative
21 approval of the budget."



1 SECTION 12. Section 302A-1609, Hawaii Revised Statutes, is
2 amended to read as follows:

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 part or all of the fees for another twenty-
11 year period for construction of new schools in the
12 school impact district, as authorized by the developer
13 or the developer's successor."

14 SECTION 13. Section 302A-1610, Hawaii Revised Statutes, is
15 amended to read as follows:

16 " [+]§302A-1610 [+] Credits for land dedication. (a) Any
17 [~~person~~] owner of a development subject to the land [~~dedication~~]
18 component impact fee requirements pursuant to this [+]subpart[+]
19 may apply for credit against any similar dedication or payment
20 accepted and received by the department for the project [-];
21 provided that any such owner who dedicates more land for school



1 facilities than is required for the development shall receive
2 credit for the excess dedicated land area.

3 (b) Any credit provided for under this section shall be
4 based on the value [7] determined in the manner provided under
5 section 302A-1606.

6 (c) Excess credits for land contributions prior to
7 [July 3, 2007] July 1, 2010, that are in excess of a developer's
8 requirement under this subpart shall be based on the determined
9 value [7] of the excess dedication; provided that the credit
10 amount shall not exceed the value of the dedication or fee in
11 lieu required under this [7] subpart [7].

12 (d) In addition to or instead of applying credits to
13 future developments, the department may execute with an owner of
14 credits an agreement to provide for partial or full
15 reimbursement from the school impact fee payments collected from
16 other developers within the same school impact district. The
17 reimbursements shall not exceed the amount of the fee revenues
18 available in the account for that school impact district."

19 SECTION 14. Section 302A-1611, Hawaii Revised Statutes, is
20 amended to read as follows:

21 " [7] §302A-1611 [7] Credits for excess contributions or
22 advance payment of required construction cost component impact



1 fees. (a) Any [applicant] owner of a development subject to
2 the [school] construction cost component impact fee requirements
3 pursuant to this [f]subpart [~~may apply for~~] shall receive
4 credit for any similar contribution, payment, or construction of
5 public school facilities accepted and received by the
6 department[~~-~~] for the development that is in excess of the
7 impact fee required under this subpart for that development. No
8 credit shall be authorized against the impact fees in lieu of
9 land dedication.

10 (b) A credit may be applied only against school impact
11 fees that would otherwise be due for new residential
12 developments for which the payment or contribution was agreed to
13 in a written educational contribution agreement. [~~The~~
14 ~~department shall maintain an accounting of the amount of the~~
15 ~~credit applicable to the new residential development and shall~~
16 ~~reduce the amount of the credit by the amount of the school~~
17 ~~impact fees that would otherwise be due for each building permit~~
18 ~~issued for the new residential development. After the credit~~
19 ~~balance is exhausted, no additional credits shall be applied to~~
20 ~~subsequent building permits issued within the new residential~~
21 ~~development.~~]



1 (c) Excess contribution credit may be applied to the
2 construction cost component impact fee requirement for any
3 future development by the same owner in the same school impact
4 district, or with the written approval of the owner of the
5 credit, to any future development by a different owner in the
6 same school impact district.

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

15 (e) Any owner of a development shall receive credit for
16 any part of its required construction cost component impact fee
17 that, with the approval of the department, is paid in advance of
18 the time specified in the written agreement executed in
19 accordance with section 302A-1607(h). The department shall
20 maintain an accounting of the amount of the credit applicable to
21 the new residential development and shall reduce the amount of
22 the credit by the amount of the impact fees that would otherwise



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

5 [~~e~~] (f) If private construction of school facilities is
6 proposed by a developer after [~~July 3, 2007,~~] July 1, 2010, if
7 the proposed construction is acceptable to the department, and
8 if the value of the proposed construction exceeds the total
9 impact fees that would be due from the development, the
10 department shall execute with the developer an agreement to
11 provide reimbursement for the excess credit from the impact fees
12 collected from other developers within the same benefit
13 district. For the purposes of this section, the private
14 construction of school facilities is a "public work" pursuant to
15 chapter 104."

16 SECTION 15. This Act does not affect rights and duties
17 that matured, penalties that were incurred, and proceedings that
18 were begun before its effective date.

19 SECTION 16. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 17. This Act shall take effect on July 1, 2050.



Report Title:

School Impact Fees

Description:

Clarifies the law for determining school impact fees for financing new or the expansion of existing Department of Education educational facilities. Effective July 1, 2050.
(SB2828 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

