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# 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) The statewide level of service.

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

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



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

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

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

7 "[+]§302A-1601[+] Findings. New residential developments  
8 within identified school impact districts create additional  
9 demand for public school facilities. As such, once school  
10 impact districts are identified, new residential developments  
11 ~~[will]~~ shall be required to contribute toward the construction  
12 of new or expansion of existing public school facilities  
13 through:

- 14 (1) The land requirement, either through an in lieu fee or  
15 actual acreage (unless land is not required in the  
16 school impact district) ~~[+]~~, based on each new  
17 residential development's proportionate share of the  
18 need to provide additional public school sites; and
- 19 (2) The construction requirement either through an in lieu  
20 fee or actual construction based on ~~[the]~~ each new  
21 residential development's proportionate share of the  
22 need to construct additional facilities.



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

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

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

19 This [+]subpart[+] establishes the methodology for  
20 developers to provide their proportionate share of the land and  
21 the construction cost of new or expanded school facilities  
22 needed to serve new residential developments, as determined in



1 ~~[section 302A-1607.]~~ sections 302A-1606 and 302A-1607,  
2 respectively."

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

5 "~~[+] §302A-1602 [.]~~ Definitions. As used in this  
6 ~~[.]~~subpart~~[.]~~, the following terms shall have the following  
7 meanings unless the context indicates otherwise:

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

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



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

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

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

13        "County" means the city and county of Honolulu, the county  
14 of Hawaii, the county of Kauai, and the county of Maui.

15        "Design enrollment" means the maximum number of students,  
16 or student capacity, a permanent school facility is designed to  
17 accommodate.

18        "Developer" means a person, corporation, organization,  
19 partnership, association, or other legal entity constructing,  
20 erecting, enlarging, altering, or engaging in any residential  
21 development activity.



1 "Dwelling unit" or "unit" means a multi-family or single-  
2 family residential unit.

3 "Fee in lieu" means a fee determined pursuant to section  
4 302A-1606[-] that is paid in lieu of the dedication of land.

5 "Land component" means a fee simple property that is  
6 vacant, suitable for a school site, and improved [+]  
7 infrastructure[+].

8 "Land component impact fee" means the share of the required  
9 school site area, the fair market value of the fee simple land  
10 area, or any combination thereof that is attributed to a  
11 specific development.

12 "Level of service" means the percentage of classrooms that  
13 are located in permanent structures, but not including  
14 classrooms located in portable buildings.

15 "Multi-family" means any dwelling unit other than a single  
16 family dwelling unit.

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

19 "New residential development" means new residential  
20 projects involving rezoned properties or parcels, current zoned  
21 parcels with or without buildings, and redevelopment projects.  
22 These projects include subdivisions and other forms of "lot



1 only" developments (when the dwelling [~~unit~~] units will not be  
2 built by the developer), and [~~include~~] developments that include  
3 single-family and multi-family units, condominiums, and  
4 additional or accessory dwelling units as defined by each  
5 county[~~, and subdivisions~~].

6 "Owner" means the owner of record of real property or the  
7 owner's authorized agent.

8 "Proportionate share" means the pro rata share of the  
9 school impact fee attributed to the specific development based  
10 on the [~~student generation rate from~~] number of units in the  
11 project.

12 "Recent school [~~construction~~] site area averages" means the  
13 department's historical average acres [~~required and enrollment~~  
14 ~~capacity~~] for new elementary (K-5), middle (6-8), and high (9-  
15 12) schools. Based on [~~existing school construction data,~~]  
16 historic schools constructed in the 1997 to 2007 period, the  
17 [~~historical average design standards~~] initial site area averages  
18 are as follows:





	<u>[Acres/school</u>	<u>Enrollment/school</u>	<u>Acres/student]</u>
	<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. The student generation  
15 rate for a school impact district shall be based on analysis of  
16 the existing number of residential units and public school  
17 students in an area, and the student generation rates of  
18 comparable projects and areas."

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

21 "[+] §302A-1603 [+] **Applicability and exemptions.** (a)  
22 Except as provided in subsection (b), any person who seeks to



1 develop a new residential development within a designated school  
2 impact district requiring:

- 3 (1) A county subdivision approval;
- 4 (2) A county building permit; or
- 5 (3) A condominium property regime approval for the  
6 project,

7 shall be required to fulfill the land dedication or fee in lieu  
8 requirement and [~~vertical~~] construction cost component impact  
9 fee requirement of the department[-], including all government  
10 housing projects.

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

- 12 (1) Any form of housing permanently excluding school-aged  
13 children, with the necessary covenants or declarations  
14 of restrictions recorded on the property;
- 15 (2) Any form of housing [~~which~~] that is or will be paying  
16 the transient accommodations tax under chapter 237D;
- 17 (3) All nonresidential development; and
- 18 (4) Any development with an executed education  
19 contribution agreement or other like document with the  
20 department for the contribution of school sites or  
21 payment of fees for school land or school  
22 construction."



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

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

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



1 " ~~[+]~~ §302A-1605 ~~[+]~~ Impact fee analysis. (a) Upon  
2 designation of a school impact district, the department shall  
3 prepare an impact fee analysis that shall include, at a minimum,  
4 the following:

5 (1) An analysis to determine appropriate student  
6 generation rates by housing type (multi-family ~~[unit~~  
7 ~~count and single-family unit count)~~ for new  
8 developments in the area.] and single-family) for all  
9 new residential developments in the school impact  
10 district area. This will provide the basis for  
11 determining the steady state enrollment generated by  
12 new residential developments that will need to be  
13 accommodated. The analysis shall also consider  
14 enrollment at existing school facilities, in and  
15 around the school impact district;

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

20 ~~[-(3) Analysis of the initial development period, when~~  
21 ~~student enrollments are anticipated to peak (to~~  
22 ~~determine capacity of facilities);~~

- 1       ~~(4) An analysis to identify the percentages of existing~~  
2       ~~statewide student enrollment at the elementary school,~~  
3       ~~middle or intermediate school, and high school levels~~  
4       ~~that are located in permanent structures, as opposed~~  
5       ~~to portable buildings, in surrounding high school~~  
6       ~~complexes;]~~
- 7       (3) An analysis to estimate the number of students  
8       generated by all new developments in the school impact  
9       district area at the point in time when the total  
10       enrollment from these developments is anticipated to  
11       peak. This information is not required for or related  
12       to the determination of the impact fee, and will  
13       provide the basis for determining the maximum  
14       enrollment generated by new residential developments  
15       that will need to be accommodated in both permanent  
16       facilities and portable buildings;
- 17       ~~[-(5)] (4) Calculation of the current statewide level of~~  
18       ~~service [, which shall be the ratio of current student~~  
19       ~~capacity at all school levels to the current~~  
20       ~~enrollment at all school levels;~~



- 1       ~~(6)~~ ~~An analysis of proposed redistricting, listing the~~  
2           ~~advantages and disadvantages by making more efficient~~  
3           ~~use of existing underutilized assets;~~
- 4       ~~(7)]~~ (5) An analysis of appropriate school land area, or  
5           other appropriate state lands, and enrollment  
6           capacity, which may include nontraditional (i.e., mid-
- 7           rise or high-rise structures) facilities to
- 8           accommodate the need for public school facilities in
- 9           high growth areas within existing urban developments;
- 10          [and
- 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       (6) A statewide classroom utilization report which shall  
18           include the following:
- 19           (A) Current design enrollment per school (i.e.  
20                   maximum number of students per classroom per  
21                   school);
- 22           (B) Current total student enrollment per school; and



1           (C) Current number of classrooms not being used for  
2           active teaching;

3           (7) An analysis including the advantages and disadvantages  
4           of making more efficient use of existing or underused  
5           assets in the school impact district through school  
6           redistricting; and

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

16           (b) The analyses specified in subsections (a)(1) and  
17           (a)(4) shall be periodically updated pursuant to section  
18           302A- (b)."

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

21           " [+] §302A-1606 [+] Impact fee[+]; land component[-];  
22           determining the amount of land or fee in lieu. (a) The school





1 land area requirements for new [school facilities shall be  
2 determined based on the recent school construction averages.]  
3 residential developments in a school impact district shall be  
4 based on recent school site area averages, student generation  
5 rates, and the number of dwelling units in the development.

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

9 Elementary school student generation rate  
10 per single-family unit (x) number of single-  
11 family units (x) recent average elementary  
12 school site area per student;

13 plus (+)

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

18 plus (+)

19 Middle or intermediate school student  
20 generation rate per single-family unit (x)  
21 number of single-family units (x) recent



1 average middle or intermediate school site  
2 area per student;

3 plus (+)

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

9 plus (+)

10 High school student generation rate per  
11 single-family unit (x) number of single-  
12 family units (x) recent average high school  
13 site area per student;

14 plus (+)

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

19 equals (=)

20 Total school land requirement.

21 ~~[(b)]~~ (c) The procedure for determining whether the  
22 dedication of land is required or a payment of a fee in lieu is



1 required for a new school facility or to satisfy the land  
2 component impact fee shall be as follows:

3 (1) A new residential development [~~of greater than or~~  
4 ~~equal to fifty units, shall include a written~~  
5 ~~agreement, prior to the issuance of a building permit,~~  
6 ~~between the owner or developer of the property and the~~  
7 ~~department,] 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 issuance of a building permit, under which the owner  
11 or developer has:~~

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

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

18 (2) [New] A new residential [developments of] development  
19 with less than fifty units shall include a written  
20 agreement[.] between the owner or the developer of the  
21 property and the department, executed prior to the  
22 issuance of the building permit, under which the owner



1 or developer has agreed to a time specified for  
2 payment for the fee in lieu [~~prior to the issuance of~~  
3 ~~the building permit~~];

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

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

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

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

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

20 ~~(5) When the payment of a fee in lieu is required, the fee~~  
21 ~~in lieu shall be paid based on the terms contained in~~  
22 ~~the written agreement;~~



1       ~~(6) Whether the department determines to require land~~  
2       ~~dedication or the payment of a fee in lieu, shall be~~  
3       ~~guided by the following criteria:]~~

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

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

10          (B) The size and shape of the land available for  
11          dedication;

12          (C) The location of existing or proposed schooling  
13          facilities; and

14          (D) The availability of infrastructure; ~~and~~

15       ~~(7)]~~ (5) The determination of the department as to whether  
16       lands shall be dedicated or whether a fee in lieu  
17       shall be paid, or a combination of both, shall be  
18       final [-];

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



1        (7) 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        [~~e~~] (d) In determining the value per acre for any new  
5 residential development, the fee simple value of the land  
6 identified for the new or expanded school facility shall be  
7 based on the appraised fair market value of improved, vacant  
8 land, zoned for residential use, and serviced by roads,  
9 utilities, and drainage. An appraiser, licensed pursuant to  
10 chapter 466K, who is selected and paid for by the developer,  
11 shall determine the value of the land. If the department does  
12 not agree with the developer's appraisal, the department may  
13 engage another licensed appraiser at its own expense, and  
14 resolve, through negotiation between the two appraisers, a fair  
15 market value. If neither party agrees, the first two appraisers  
16 shall select the third appraiser, with the cost of the third  
17 appraisal being shared equally by the department and the  
18 developer, and the third appraisal shall be binding on both  
19 parties.

20        [~~d~~] (e) The developer or owner of new residential  
21 developments of greater than fifty units shall either pay the  
22 [~~in lieu~~] fee in lieu based on the land value as determined in



1 subsection ~~[(e)]~~ (d) or convey appropriate acreage as determined  
2 in subsection (b). When conveying the fee simple interest for  
3 the new or expanded school facility, the developers shall be  
4 credited the difference between the fair market fee simple value  
5 of the property and the developers' proportionate share of the  
6 value of the land as determined in subsection ~~[(e)]~~ (d) against  
7 any impact fees for construction. Any excess may be transferred  
8 and used as credit against any future land or construction cost  
9 requirements on any other development of the State.

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

12 Acres of land ~~[calculated according to]~~ subject to the fee  
13 in lieu, as determined under subsection ~~[(b)]~~ (c) multiplied  
14 by the value per acre of land determined pursuant to  
15 subsection ~~[(e)]~~ (d)."

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

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



- 1           (1) For new school construction, the cost per student for  
2           each school type (elementary, middle or intermediate,  
3           and high school) is based on the ten-year average  
4           construction of a new school facility using the  
5           Honolulu assessment district in 2006 as the base.  
6           Costs for construction completed earlier than 2006  
7           shall be escalated to 2006 using the engineering news-  
8           record construction cost index;
- 9           (2) For expansion of existing school facilities, the cost  
10          per student for each school type (elementary, middle  
11          or intermediate, and high school) is based on the ten-  
12          year average construction of whatever components are  
13          required to expand the school using the Honolulu  
14          assessment district in 2006 as the base;
- 15          (3) The cost per student in other assessment districts  
16          shall be the cost per student in the Honolulu  
17          assessment district multiplied by the appropriate cost  
18          factor in subsection [~~(e)~~] (d). At least every three  
19          years, the department shall update the cost per  
20          student based on the construction of a new permanent  
21          school facility, and present the written analysis to  
22          the board for review; and





1 (4) Student generation rates, as defined in section  
2 302A-1602.

3 (b) The student generation rate for each school type  
4 (elementary, middle or intermediate, and high school) shall be  
5 multiplied by the cost per student for each school type  
6 (elementary, middle or intermediate, and high school) to  
7 determine the ~~[cost/unit]~~ cost per dwelling unit in the  
8 development.

9 (c) The construction cost component impact fee shall be  
10 based on recent public school construction costs. The 1997 to  
11 2007 period school construction costs per student, adjusted for  
12 both the year 2007 and for the Honolulu assessment district, are  
13 as follows:

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

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

16 and

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

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



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

6	Cost District	School District	Cost Factor
7	Honolulu	Honolulu	1.00
8	Ewa	Leeward/Central	1.00
9	Wahiawa	Central	1.05
10	Waialua	Central	1.10
11	Koolaupoko	Windward	1.00
12	Koolauloa	Windward	1.00
13	Waianae	Leeward	1.10
14	Hilo	Hawaii	1.15
15	Puna	Hawaii	1.20
16	Kona	Hawaii	1.20
17	Hamakua	Hawaii	1.20
18	South Kohala	Hawaii	1.20
19	North Kohala	Hawaii	1.25
20	Pohakuloa	Hawaii	1.25
21	Kau	Hawaii	1.30
22	Wailuku	Maui	1.15
23	Makawao	Maui	1.25
24	Lahaina	Maui	1.30
25	Hana	Maui	1.35
26	Molokai	Molokai	1.30
27	Lanai	Lanai	1.35
28	Lihue	Kauai	1.15
29	Koloa	Kauai	1.20
30	Kawaihau	Kauai	1.20
31	Waimea	Kauai	1.25
32	Hanalei	Kauai	1.25

33  
 34        [~~d~~] (e) At least every three years, and concurrent with  
 35        any update of the costs per student, the department shall update  
 36        the revenue credits and present the written analysis to the



1 board for review. The calculation of revenue credits shall be  
2 reviewed and calculated recognizing that the impact fee shall be  
3 set at one hundred per cent of the fair market value of the land  
4 and ten per cent of the total school construction cost.

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

8 Cost per dwelling unit from ~~[(f)]~~ subsection  
9 (b) ~~[(f)]~~ minus any amount by which the revenue  
10 credit per dwelling unit from subsection  
11 ~~[(d)]~~ (e) exceeds ninety per cent of the per  
12 unit construction cost.

13 ~~[(f)]~~ (g) The amount of the fee shall be ~~[increased]~~  
14 adjusted from the date it was determined to the date it is paid  
15 using the engineering news-record construction cost index, or an  
16 equivalent index if that index is discontinued.

17 ~~[(g)]~~ (h) Any new residential development shall be  
18 required to obtain a written agreement executed between the  
19 owner or developer of the property and the department, prior to  
20 the issuance of a building permit, under which the owner or  
21 developer has agreed to a time specified for payment ~~[, for]~~ of



1 its [~~school impact fee~~] construction cost component [~~prior to~~  
2 ~~the issuance of the building permit.~~] impact fee."

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

5 "[~~f~~]§302A-1608 [~~+~~] **Accounting and expenditure requirements.**

6 (a) Each designated school impact district shall be a separate  
7 benefit district. Fees collected within each school impact  
8 district shall be spent only within the same school impact  
9 district for the purposes collected.

10 (b) Land dedicated by the developer shall be used only as  
11 a site for the construction of one or more new schools or for  
12 the expansion of existing school facilities. If the land is  
13 never used for the school facility, it shall be returned to the  
14 developer, or the developer's successor in interest. Once used,  
15 the land may be sold, with the proceeds used to acquire land for  
16 school facilities in the same school impact district.

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

20 (d) Once used for school facilities, all or part of the  
21 land may be later sold. Proceeds from this sale shall be used



1 to acquire land for school facilities in the same school impact  
2 district.

3 ~~[(e)]~~ (e) Fee in lieu funds may be used for ~~[expenses~~  
4 ~~related to acquiring a piece of land,]~~ school site land  
5 acquisition and related expenses, including [but not limited to]  
6 surveying, appraisals, and legal fees. Fee in lieu funds shall  
7 not be used for the maintenance or operation of existing schools  
8 in the district, construction costs, including architectural,  
9 permitting, or financing costs, or for administrative expenses.

10 ~~[(f)]~~ (f) Impact fees for the construction cost component  
11 shall be used only for the costs of new school facilities that  
12 expands the student capacity of existing schools or adds student  
13 capacity in new schools. School impact fees may not be used to  
14 replace an existing school located within the same school impact  
15 district, either on the same site or on a different site. [~~In~~  
16 ~~the event of closure, demolition, or conversion of an existing~~  
17 ~~permanent department facility within a school impact district~~  
18 ~~that has the effect of reducing student capacity, an amount of~~  
19 ~~new student capacity in permanent buildings equivalent to the~~  
20 ~~lost capacity shall be funded with non-school impact fee~~  
21 ~~revenue. Eligible construction costs include but are not~~  
22 ~~limited to planning, engineering, architectural, permitting,~~



1 ~~financing, and administrative expenses, and any other capital~~  
2 ~~equipment expenses pertaining to educational facilities. Impact~~  
3 ~~fees for the construction cost component shall not be expended~~  
4 ~~for:~~

- 5 ~~(1) Any costs related to the acquisition of land,~~
- 6 ~~(2) The maintenance or operation of existing schools in~~  
7 ~~the district; or~~
- 8 ~~(3) Portable or temporary facilities.~~
- 9 ~~(e) Impact fees and fees in lieu]~~

10 (g) Eligible construction costs include planning,  
11 engineering, architectural, permitting, financing, and  
12 administrative expenses, and any other capital equipment  
13 expenses pertaining to educational facilities.

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

- 16 (1) The maintenance or operation of existing schools in  
17 the district; or
- 18 (2) Portable or temporary facilities.

19 (i) If a closure, demolition, or conversion of an existing  
20 permanent department facility within a school impact district  
21 that has the effect of reducing student capacity occurs, an  
22 amount of new student capacity in permanent buildings equivalent



1 to the lost capacity shall not be funded with school impact fee  
2 revenue.

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

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

15 "[+]§302A-1609[+] Refunds[-] of fees. If [the] a fee in  
16 lieu of land dedication or a construction cost component impact  
17 fee is not expended within twenty years of the date of  
18 collection, the department shall either:

- 19 (1) Refund to the developer, or the developer's successor  
20 in interest, the amount of the fee in lieu paid and  
21 any interest accrued thereon; or



1           (2) Recommit part or all of the fees for another twenty-  
2           year period for construction of new schools in the  
3           school impact district, as authorized by the developer  
4           or the developer's successor."

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

7           "~~[+]§302A-1610[+]~~ Credits for land dedication. (a) Any  
8           ~~[person]~~ owner of a development subject to the land ~~[dedication]~~  
9           component impact fee requirements pursuant to this ~~[+]subpart[+]~~  
10          may apply for credit against any similar dedication or payment  
11          accepted and received by the department for the project~~[+]~~;  
12          provided that any such owner who dedicates more land for school  
13          facilities than is required for the development shall receive  
14          credit for the excess dedicated land area.

15          (b) Any credit provided for under this section shall be  
16          based on the value~~[+]~~ determined in the manner provided under  
17          section 302A-1606.

18          (c) Excess credits for land contributions prior to  
19          ~~[July 3, 2007]~~ July 1, 2010, that are in excess of a developer's  
20          requirement under this subpart shall be based on the determined  
21          value~~[+]~~ of the excess dedication; provided that the credit





1 amount shall not exceed the value of the dedication or fee in  
2 lieu required under this [f]subpart [f].

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

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

12 "[f]§302A-1611 [f] Credits for excess contributions or  
13 advance payment of required construction cost component impact  
14 fees. (a) Any [applicant] owner of a development subject to  
15 the [school] construction cost component impact fee requirements  
16 pursuant to this [f]subpart [f] ~~may apply for~~ shall receive  
17 credit for any similar contribution, payment, or construction of  
18 public school facilities accepted and received by the  
19 department[-] for the portion of the development that is in  
20 excess of the impact fee required under this subpart for that  
21 development. No credit shall be authorized against the impact  
22 fees in lieu of land dedication.



1 (b) A credit may be applied only against school impact  
2 fees that would otherwise be due for new residential  
3 developments for which the payment or contribution was agreed to  
4 in a written educational contribution agreement. [~~The~~  
5 ~~department shall maintain an accounting of the amount of the~~  
6 ~~credit applicable to the new residential development and shall~~  
7 ~~reduce the amount of the credit by the amount of the school~~  
8 ~~impact fees that would otherwise be due for each building permit~~  
9 ~~issued for the new residential development. After the credit~~  
10 ~~balance is exhausted, no additional credits shall be applied to~~  
11 ~~subsequent building permits issued within the new residential~~  
12 ~~development.]~~

13 (c) Excess contribution credit may be applied to the  
14 construction cost component impact fee requirement for any  
15 future development by the same owner in the same school impact  
16 district, or with the written approval of the owner of the  
17 credit, to any future development by a different owner in the  
18 same school impact district.

19 (d) In addition to or instead of applying the credits to  
20 future developments, the department may execute with an owner of  
21 the credits an agreement to provide for partial or full  
22 reimbursement from the impact fee payments collected from other



1 developers within the same school impact district. The  
2 reimbursements shall not exceed the amount of the impact fee  
3 revenues available in the account for that school impact  
4 district.

5 (e) Any owner of a development shall receive credit for  
6 any part of its required construction cost component impact fee  
7 that, with the approval of the department, is paid in advance of  
8 the time specified in the written agreement executed in  
9 accordance with section 302A-1607(h). The department shall  
10 maintain an accounting of the amount of the credit applicable to  
11 the new residential development and shall reduce the amount of  
12 the credit by the amount of the impact fees that would otherwise  
13 be due for each building permit issued for the new residential  
14 development. After the credit balance is exhausted, no  
15 additional credits shall be applied to subsequent building  
16 permits issued within the new residential development.

17 [-(e)] (f) If private construction of school facilities is  
18 proposed by a developer after [July 3, 2007,] July 1, 2010, if  
19 the proposed construction is acceptable to the department, and  
20 if the value of the proposed construction exceeds the total  
21 impact fees that would be due from the development, the  
22 department shall execute with the developer an agreement to



1 provide reimbursement for the excess credit from the impact fees  
2 collected from other developers within the same benefit  
3 district. For the purposes of this section, the private  
4 construction of school facilities is a "public work" pursuant to  
5 chapter 104."

6 SECTION 15. This Act does not affect rights and duties  
7 that matured, penalties that were incurred, and proceedings that  
8 were begun before its effective date.

9 SECTION 16. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 17. This Act shall take effect upon its approval.



**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 upon its approval.  
(SB2828 HD2)

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

