

JAN 23 2009

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

8 For example, the original legislation is unclear regarding
9 the formula for valuing land donations and it also permits the
10 transfer of fees between designated districts, which would not
11 meet the legal test for school impact fees.

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

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



1 "§302A- Use of data reflecting recent conditions in
2 impact fee calculations. (a) Every three years, beginning in
3 2010, the department shall concurrently update the following:

- 4 (1) School site area averages provided in section
5 302A-1606(b);
- 6 (2) Elementary, middle or intermediate, and high school
7 permanent facility construction costs per student
8 provided in section 302A-1607(b); and
- 9 (3) Revenue credit per unit figures provided in section
10 302A-1607(e).

11 (b) Every three years following the initial determination
12 pursuant to section 302A-1605, the department shall update the
13 following:

- 14 (1) Student generation rates for each established school
15 impact district; and
- 16 (2) The statewide percentages of students in permanent
17 structures and portable classrooms.

18 (c) Every three years beginning in 2010, the department
19 shall, where appropriate, update the list of cost factors for
20 the twenty-six geographically enumerated cost districts, as
21 provided in section 302A-1607(c), by incorporating any changes



1 to these cost factors that have been made by the department of
2 accounting and general services.

3 (d) If any of the above data updates are not completed
4 within the specified time, the current data shall be used until
5 such time as the update is completed."

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

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

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

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

19 (1) The land requirement, either through ~~[an]~~ dedication
20 of land or payment of a fee in lieu ~~[fee or actual~~
21 ~~acreage (unless land is not required in the school~~
22 ~~impact district)]~~, based on each new development's



1 proportionate share of the need to provide additional
2 public school sites; and
3 (2) The construction cost requirement [~~either~~] through [~~an~~
4 ~~in lieu~~] a fee [~~or actual construction~~] based on [~~the~~]
5 each new development's proportionate share of the need
6 to construct additional public school facilities.

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

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

20 In determining proportionate share, new developments shall
21 be charged for a level of service that is equal to, and no



1 higher than, the current level of service being provided to
2 existing residential areas.

3 This [+]subpart[+] establishes the methodology for
4 developers to provide their proportionate share of the land and
5 the construction cost of new or expanded school facilities
6 needed to serve new residential developments, as [determined]
7 provided in [section 302A-1607.] sections 302A-1606 and
8 302A-1607."

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

11 "~~[+]§302A-1602[+]~~ **Definitions.** As used in this
12 [+]subpart[+], the following terms shall have the following
13 meanings unless the context indicates otherwise:

14 "Acres[≠] per student" means the [~~number of~~] area of land
15 in acres required per student for a school site based on [~~design~~
16 ~~standards for schools.~~] the actual school site size and the
17 design enrollment of schools constructed within approximately
18 the last ten years.

19 "Construction cost" means the net cost to construct a
20 school, including without limitation, planning, design,
21 engineering, grading, permits, construction, and construction
22 and project management, but not including the cost to acquire



1 land. [~~The intent of the school impact fee calculation is that~~
2 ~~new developments should not be charged for a higher level of~~
3 ~~service than is being provided to existing developments. A~~
4 ~~reasonable measure of the level of service is the percentage of~~
5 ~~classrooms that are in permanent structures, as opposed to~~
6 ~~portable buildings.~~]

7 "Construction cost component impact fee" means the share of
8 the construction cost for the required new school, the expansion
9 of existing school facilities that are attributable to a
10 specific development, or both.

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

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

19 "County" means the city and county of Honolulu, the county
20 of Hawaii, the county of Kauai, and the county of Maui.

21 "Department" means the department of education.



1 "Design enrollment" means the maximum number of students,
2 or student capacity, a permanent school facility is designed to
3 accommodate.

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

8 "Dwelling unit" or "unit" means a multi-family or single-
9 family residential unit.

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

12 "Land component" means a fee simple property that is
13 vacant, suitable for a school site, and improved [÷]with
14 infrastructure[÷].

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

19 "Level of service" means the percentage of classrooms that
20 are located in permanent structures, but not including
21 classrooms located in portable buildings.



1 "Multi-family" means any dwelling unit other than a single
2 family dwelling unit.

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

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

14 "Owner" means the owner of record of real property or the
15 owner's authorized agent.

16 "Proportionate share" means the pro rata share of the
17 school impact fee attributed to the specific development based
18 on the ~~[student-generation-rate-from]~~ number of units in the
19 project.

20 "Recent school ~~[construction]~~ site area averages" means the
21 ~~[department's historical average acres required and enrollment~~
22 ~~capacity for elementary (K-5), middle (6-8), and high (9-12)~~



1 ~~schools. Based on existing school construction data, the~~
 2 ~~historical average design standards are as follows:~~

3	Acre/school	Enrollment/school	Acre/student
4	Elem. 12.5 acres	800 students	.0156 acres
5	Middle 16.5 acres	1,500 students	.0110 acres
6	High 49 acres	1,600 students	.0306 acres]

7 average land area provided per student for elementary (K-5),
 8 middle or intermediate (6-8), and high (9-12) schools that have
 9 been constructed within approximately the last ten years.

10 "Revenue credit" means the present value of future state
 11 general tax revenues under chapter 237 that will be generated by
 12 [the] a new [residential] dwelling unit and used to fund
 13 capacity- expanding school capital [facilities] improvements and
 14 pay for outstanding debt on [existing facilities.] past
 15 capacity-expanding improvements.

16 "School facilities" means the facilities owned or operated
 17 by the department, or the facilities included in the department
 18 of education capital budget or capital facilities plan.

19 "School impact district" means a geographic area designated
 20 by the board where anticipated [growth] new residential
 21 development will create the need for one or more new schools or
 22 the expansion of one or more existing schools that are or will



1 be located within the area and will primarily serve new
2 [~~housing~~] dwelling units within the area.

3 [~~"School impact fee: construction cost component" means ten~~
4 ~~per cent of the construction cost associated with the~~
5 ~~construction of a new school or expansion of an existing school~~
6 ~~facility.~~

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

11 "Single-family" means a detached dwelling unit not
12 connected to any other dwelling unit, or a detached building
13 containing two dwelling units.

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

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



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

3 "~~[§]~~302A-1603~~[§]~~ **Applicability and exemptions.** (a)

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

- 7 (1) A county subdivision approval;
- 8 (2) A county building permit; or
- 9 (3) A condominium property regime approval for the
10 project,

11 shall be required to fulfill the land dedication or fee in lieu
12 requirement and ~~[vertical]~~ construction cost component impact
13 fee requirement of the department.

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

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



1 department for the contribution of school sites or
2 payment of fees for school land or school
3 construction[-]; provided that the education
4 contribution agreement or other like document was
5 executed prior to July 1, 2009."

6 SECTION 7. Section 302A-1604, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"[+]§302A-1604[+] Designation of school impact districts.**

9 (a) The board shall designate a school impact district [~~for~~
10 ~~school impact fees~~] only after holding at least one public
11 hearing in the area proposed for the school impact district.

12 The written analysis, prepared in accordance with subsection

13 (b), shall be made available to the public at least thirty days
14 prior to the public hearing. Notice of the public hearing shall
15 be made as provided in section 1-28.5. The notice shall include
16 a map of the proposed school impact district and the date, time,
17 and place of the public hearing.

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

21 (1) A map and legend describing the boundaries of the
22 proposed school impact district area, which may range



1 from one school to one or more high school complexes;
2 and

3 (2) Analysis to support the need to construct new or
4 expand existing school facilities in the proposed
5 school impact district area within the next twenty-
6 five years to accommodate projected growth in the area
7 based on various state and county land use,
8 demographics, growth, density, and other applicable
9 projections and plans."

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

12 "[+]§302A-1605[+] **Impact fee analysis.** (a) Upon
13 designation of a school impact district, the department shall
14 prepare an impact fee analysis that shall include, at a minimum,
15 the following:

16 (1) An analysis to determine appropriate student
17 generation rates by housing type (multi-family [~~unit~~
18 ~~count and single family unit count~~] ~~for new~~
19 ~~developments in the area.~~ The analysis shall also
20 ~~consider enrollment at existing school facilities, in~~
21 ~~and around the school impact district,]~~ and single-
22 family) for all new developments in the school impact



1 district area. This will provide the basis for
2 determining the steady state enrollment generated by
3 new residential developments that will need to be
4 accommodated;

5 [~~(2) Student generation rates, based on full build-out of~~
6 ~~the development when student generation rates are~~
7 ~~anticipated to be in a steady state mode (permanent~~
8 ~~facility);~~

9 ~~(3) Analysis of the initial development period, when~~
10 ~~student enrollments are anticipated to peak (to~~
11 ~~determine capacity of facilities);]~~

12 (2) An analysis to estimate the number of students
13 generated by all new developments in the school impact
14 district area at the point in time when the total
15 enrollment from these developments is anticipated to
16 peak. This will provide the basis for determining the
17 maximum enrollment generated by new residential
18 developments that will need to be accommodated in both
19 permanent facilities and portable buildings;

20 [~~(4)~~] (3) An analysis to identify the current statewide
21 levels of service, as measured by the percentages of
22 existing statewide student enrollment at the

1 elementary school, middle or intermediate school, and
2 high school levels that are located in permanent
3 [~~structures, as opposed to~~] structures, and in
4 portable [~~buildings, in surrounding high school~~
5 ~~complexes,~~] buildings;

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

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

13 ~~(7) An analysis of appropriate school land area and~~
14 ~~enrollment capacity, which may include nontraditional~~
15 ~~(i.e., mid rise or high rise structures) facilities to~~
16 ~~accommodate the need for public school facilities in~~
17 ~~high growth areas within existing urban developments;~~
18 ~~and~~

19 ~~(8) An analysis to identify the percentages of existing~~
20 ~~student enrollment at the elementary school, middle or~~
21 ~~intermediate school, and high school levels that are~~
22 ~~located in permanent structures, and the percentages~~



1 ~~that are located in portable buildings in surrounding~~
2 ~~high school complexes.]~~

3 (4) An analysis, including but not limited to, the
4 advantages and disadvantages of the potential for
5 making more efficient use of existing or underutilized
6 assets in the school impact district through school
7 redistricting; and

8 (5) An analysis, including but not limited to, the
9 advantages and disadvantages of potential changes to
10 statewide school site areas and design enrollment
11 standards that may be appropriate for application in
12 the particular school impact district. This may
13 include, for example, non-traditional facilities such
14 as mid-rise or high-rise structures in existing urban
15 areas where new residential development is expected to
16 generate the need for new school construction.

17 (b) The analyses specified in subsections (a)(1) and (3)
18 shall be periodically updated pursuant to section 302A- ."

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 the student generation rates established pursuant to
 5 section 302A-1605(a)(1), recent school land area averages as
 6 specified in subsection (b), and the number of dwelling units in
 7 the development.

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

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

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

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

19 Elementary school student generation rate
 20 per single-family unit (x) number of single-
 21 family units (x) recent average elementary
 22 school site area per student;



1 plus (+)

2 Elementary school student generation rate

3 per multi-family unit (x) number of multi-

4 family units (x) recent average elementary

5 school site area per student;

6 plus (+)

7 Middle or intermediate school student

8 generation rate per single-family unit (x)

9 number of single-family units (x) recent

10 average middle or intermediate school site

11 area per student;

12 plus (+)

13 Middle or intermediate school student

14 generation rate per multi-family unit (x)

15 number of multi-family units (x) recent

16 average middle or intermediate school site

17 area per student;

18 plus (+)

19 High school student generation rate per

20 single-family unit (x) number of single-

21 family units (x) recent average high school

22 site area per student;



1 plus (+)
2 High school student generation rate per
3 multi-family unit (x) number of multi-family
4 units (x) recent average high school site
5 area per student;

6 equals (=)
7 Total school land requirement.

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

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



- 1 (A) Agreed to designate an area to be dedicated for
2 one or more schools for the development, subject
3 to approval by the department; or
- 4 (B) Agreed to pay to the department, at a time
5 specified in the agreement, a fee in lieu of land
6 dedication[+].
- 7 (2) New residential developments [~~of~~] with less than fifty
8 units shall include a written agreement[+] between the
9 owner or the developer of the property and the
10 department, executed prior to the issuance of the
11 building permit, under which the owner or developer
12 has agreed to a time specified for payment for the fee
13 in lieu [~~prior to the issuance of the building~~
14 ~~permit~~].
- 15 (3) Prior to approval of any [~~subdivision~~] change of
16 zoning, subdivision, or any other approval for a:
- 17 (A) Residential development [~~equal to or greater than~~
18 ~~fifty~~] with fifty or more units; or
- 19 (B) Condominium property regime development of fifty
20 or more units [~~or more~~],
- 21 the department shall notify the approving agency of
22 its determination on whether [~~to require the~~



1 ~~dedication of land, the payment of]~~ it will require
 2 the development to dedicate land, pay a fee in lieu
 3 thereof, or a combination of both[+] for the provision
 4 of new school facilities.

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

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

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

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

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

21 (B) The size and shape of the land available for
 22 dedication;



1 (C) The location of existing or proposed schooling
2 facilities; and

3 (D) The availability of infrastructure~~[, and]~~.

4 ~~[(7)]~~ (5) The determination of the department as to whether
5 lands shall be dedicated or whether a fee in lieu
6 shall be paid, or a combination of both, shall be
7 final.

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

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

15 ~~[(e)]~~ (e) In determining the value per acre for any new
16 residential development, the fee simple value of the land
17 identified for the new or expanded school facility shall be
18 based on the appraised fair market value of improved, vacant
19 land, zoned for residential use, and serviced by roads,
20 utilities, and drainage. An appraiser, licensed pursuant to
21 chapter 466K, who is selected and paid for by the developer,
22 shall determine the value of the land. If the department does



1 not agree with the developer's appraisal, the department may
2 engage another licensed appraiser at its own expense, and
3 resolve, through negotiation between the two appraisers, a fair
4 market value. If neither party agrees, the first two appraisers
5 shall select the third appraiser, with the cost of the third
6 appraisal being shared equally by the department and the
7 developer, and the third appraisal shall be binding on both
8 parties.

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

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



1 Acres of land [~~calculated according~~] subject to the fee in
2 lieu as determined pursuant to subsection [~~(b)~~] (d)
3 multiplied by the value per acre of land determined pursuant
4 to subsection [~~(e)~~] (e)."

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

7 "~~[+]§302A-1607[+]~~ **Impact fee[+]; construction cost**
8 **component[-]; determining the [~~cost per unit.~~] amount of the**
9 **fee.** (a) The construction cost component of the school impact
10 [~~fees shall be calculated using the following factors:~~] fee
11 requirement for new residential developments in a school impact
12 district shall be based on the student generation rates
13 established pursuant to section 302A-1605(a)(1), recent public
14 school construction costs per student as provided in subsection
15 (b), the statewide percentages of students in permanent school
16 facilities within the school impact district as determined
17 pursuant to section 302A-1605(a)(3), the cost factors for the
18 twenty-six geographically limited cost districts as provided in
19 subsection (c), and the number of single-family and multi-family
20 dwelling units in the development.

21 [~~(1)~~] ~~For new school construction, the cost per student for~~
22 ~~each school type (elementary, middle or intermediate,~~



1 ~~and high school) is based on the ten year average~~
2 ~~construction of a new school facility using the~~
3 ~~Honolulu assessment district in 2006 as the base.~~
4 ~~Costs for construction completed earlier than 2006~~
5 ~~shall be escalated to 2006 using the engineering news-~~
6 ~~record construction cost index;~~

7 ~~(2) For expansion of existing school facilities, the cost~~
8 ~~per student for each school type (elementary, middle~~
9 ~~or intermediate, and high school) is based on the ten-~~
10 ~~year average construction of whatever components are~~
11 ~~required to expand the school using the Honolulu~~
12 ~~assessment district in 2006 as the base;~~

13 ~~(3) The cost per student in other assessment districts~~
14 ~~shall be the cost per student in the Honolulu~~
15 ~~assessment district multiplied by the appropriate cost~~
16 ~~factor in subsection (c). At least every three years,~~
17 ~~the department shall update the cost per student based~~
18 ~~on the construction of a new permanent school~~
19 ~~facility, and present the written analysis to the~~
20 ~~board for review; and~~

21 ~~(4) Student generation rates, as defined in section~~
22 ~~302A-1602.~~



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

6 (b) The construction cost component impact fee shall be
7 based on recent public school construction costs. The 1997 to
8 2007 period school construction costs per student, adjusted for
9 both the year 2007 and for the Honolulu assessment district, are
10 as follows:

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

15 The costs per student for other assessment districts shall be
16 determined by multiplying the Honolulu assessment district costs
17 per student by the applicable cost factor in subsection (c).

18 These costs per student shall be updated at least every three
19 years, pursuant to the provisions in section 302A- .

20 (c) The State shall be divided into the following twenty-
21 six geographically limited cost districts[+], and the cost
22 factors listed for each cost district shall be applied to the



1 calculation of school construction costs per unit pursuant to
 2 subsection (d):

3	Cost District	School District	Cost Factor
4	Honolulu	Honolulu	1.00
5	Ewa	Leeward/Central	1.00
6	Wahiawa	Central	1.05
7	Waialua	Central	1.10
8	Koolaupoko	Windward	1.00
9	Koolauloa	Windward	1.00
10	Waianae	Leeward	1.10
11	Hilo	Hawaii	1.15
12	Puna	Hawaii	1.20
13	Kona	Hawaii	1.20
14	Hamakua	Hawaii	1.20
15	South Kohala	Hawaii	1.20
16	North Kohala	Hawaii	1.25
17	Pohakuloa	Hawaii	1.25
18	Kau	Hawaii	1.30
19	Wailuku	Maui	1.15
20	Makawao	Maui	1.25
21	Lahaina	Maui	1.30
22	Hana	Maui	1.35



1	Molokai	Molokai	1.30
2	Lanai	Lanai	1.35
3	Lihue	Kauai	1.15
4	Koloa	Kauai	1.20
5	Kawaihau	Kauai	1.20
6	Waimea	Kauai	1.25
7	Hanalei	Kauai	1.25

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

15 ~~(c) The construction cost component of the impact fees per~~
16 ~~dwelling unit shall be ten per cent of the amounts calculated~~
17 ~~according to the following formula:~~

18 ~~Cost per dwelling unit from [[]subsection (b)[]] minus~~
19 ~~any amount by which the revenue credit per dwelling~~
20 ~~unit from subsection (d) exceeds ninety per cent of~~
21 ~~the per unit construction cost.]~~



1 (d) The school construction costs per unit for single-
 2 family and multi-family housing shall be calculated separately
 3 for each school impact district using the formula provided
 4 below. Student generation rates are as determined in section
 5 302A-1605(a)(1), costs per student are as determined in
 6 subsection (b), statewide percentages of students in permanent
 7 buildings are as determined in section 302A-1605(a)(3), and cost
 8 district factors are as provided in subsection (c). The
 9 formula, to be determined separately for single-family and
 10 multi-family units, is as follows:

11 Elementary school student generation rate
 12 per unit (x) elementary school cost per
 13 student (x) statewide percentage of existing
 14 elementary school students in permanent
 15 buildings (x) cost district factor;

16 plus (+)

17 Middle or intermediate school student
 18 generation rate per unit (x) middle or
 19 intermediate school cost per student (x)
 20 statewide percentage of existing middle
 21 school students in permanent buildings (x)
 22 cost district factor;



1 plus (+)
 2 High school student generation rate per unit
 3 (x) high school cost per student (x)
 4 statewide percentage of existing high school
 5 students in permanent buildings (x) cost
 6 district factor;

7 equals (=)
 8 School construction cost per unit.

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

- 17 (1) Single-family dwelling unit: \$2,786; and
- 18 (2) Multi-family dwelling unit: \$1,428.

19 These revenue credit figures shall be updated at least every
 20 three years, pursuant to the provisions in section 302A- .

21 (f) The construction cost component impact fee for each
 22 residential development in a school impact district shall be ten



1 per cent of the school construction costs attributable to that
2 development, as calculated according to the following formula:

3 Cost per single-family unit from subsection
4 (d) (-) cost reduction per single-family
5 unit from subsection (e), if applicable (x)
6 number of single-family units (x) 0.10;

7 plus (+)

8 Cost per multi-family unit from subsection
9 (d) (-) cost reduction per multi-family unit
10 from subsection (e), if applicable (x)
11 number of multi-family units (x) 0.10;

12 equals (=)

13 Construction cost component impact fee.

14 (g) If the only improvements needed in a school impact
15 district involve the expansion of existing school facilities,
16 the cost per student for elementary, middle or intermediate, and
17 high school shall be based on an approximate ten-year average of
18 recent construction costs for building components required to
19 expand the existing school. The department shall conduct an
20 analysis to determine the recent average construction cost per
21 student for the required building components when applicable.

22 The formula outlined in subsections (d), (e), and (f), with the



1 building component cost per student substituted for the school
2 cost per student, shall be used to determine part or all of a
3 development's construction cost component impact fee that is
4 applicable to the expansion of existing school facilities.

5 [+(f)] (h) The amount of the fee shall be [increased]
6 adjusted from the date it was determined to the date it is paid
7 using the engineering news-record construction cost index, or an
8 equivalent index if that index is discontinued.

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

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

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

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



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

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

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

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



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

4 [~~(d) Impact fees for the construction cost component shall~~
5 ~~be used only for the costs of new school facilities that expands~~
6 ~~the student capacity of existing schools or adds student~~
7 ~~capacity in new schools. School impact fees may not be used to~~
8 ~~replace an existing school located within the same school impact~~
9 ~~district, either on the same site or on a different site.]~~

10 (f) Construction cost component impact fees may be used
11 for the construction of new school facilities, including school
12 site land acquisition where the department determines that there
13 is a greater need.

14 (g) If construction cost component impact fees are used
15 for construction, the fees shall be used for the costs of new
16 school facilities that expand the student capacity of existing
17 schools or add student capacity in new schools. Eligible
18 construction costs include but are not limited to planning,
19 engineering, architectural, permitting, financing, and
20 administrative expenses, and any other capital equipment
21 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;

5 (2) Portable or temporary facilities; or

6 (3) The replacement of an existing school located within
7 the same school impact district, either on the same
8 site or on a different site.

9 ~~[In the event of]~~ (i) If the closure, demolition, or
10 conversion of an existing permanent department facility within a
11 school impact district ~~[that]~~ has the effect of reducing student
12 capacity, an amount of new student capacity in permanent
13 buildings equivalent to the lost capacity shall not be funded
14 with ~~[non-school]~~ school impact fee revenue. ~~[Eligible~~
15 ~~construction costs include but are not limited to planning,~~
16 ~~engineering, architectural, permitting, financing, and~~
17 ~~administrative expenses, and any other capital equipment~~
18 ~~expenses pertaining to educational facilities. Impact fees for~~
19 ~~the construction cost component shall not be expended for:~~

20 ~~(1) Any costs related to the acquisition of land;~~

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



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

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

14 "~~+~~§302A-1609~~+~~ **Refunds~~-~~ of fees.** If ~~the~~ a fee in
15 lieu of land dedication or a construction cost component impact
16 fee is not expended within twenty years of the date of
17 collection, the department shall either:

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

21 (2) Recommit part or all of the fees for another twenty-
22 year period for construction of new schools in the school impact

1 district, as authorized by the developer or the developer's
2 successor."

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

5 "[+]§302A-1610[+] Credits for excess land dedication. (a)

6 Any [~~person~~] owner of a development subject to the land
7 [~~dedication~~] component impact fee requirements pursuant to this
8 [+]subpart[+] may apply for credit against any similar dedication
9 or payment accepted and received by the department for the
10 project.] who dedicates more land for school facilities than is
11 required for that development shall receive credit for the
12 excess dedicated land area.

13 (b) A credit received pursuant to subsection (a) may be
14 applied to the land 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 [~~(b)~~] (c) Any credit provided for under this section shall
20 be based on the value[~~7~~] determined in the manner provided under
21 section 302A-1606.



1 ~~[(c) Excess credits for land contributions prior to~~
2 ~~July 3, 2007 shall be based on the value;]~~

3 (d) Credits for land dedications made prior to the July 1,
4 2009 that are in excess of a developer's requirement under this
5 subpart shall be based on the determined value of the excess
6 dedication; provided that the credit amount shall not exceed the
7 value of the dedication or fee in lieu required under this
8 [+]subpart[+].

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

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

18 "**[+]§302A-1611[+]** **Credits for excess contributions or**
19 **advance payment of required construction cost component impact**
20 **fees.** (a) Any ~~[applicant subject to the school]~~ owner of a
21 development subject to the construction cost component impact
22 fee requirements pursuant to this [+]subpart[+] may apply for]



1 shall receive credit for any [similar contribution, payment, or]
2 private construction or monetary contribution toward the
3 construction of public school facilities that is accepted and
4 received by the department [~~. No credit shall be authorized~~
5 against the impact fees in lieu of land dedication.] for the
6 development, and is in excess of the impact fee required under
7 this subpart for that development. For the purposes of this
8 section, the private construction of school facilities is a
9 "public work" pursuant to chapter 104.

10 (b) Any excess contribution credit pursuant to subsection
11 (a) may be applied to the construction cost component impact fee
12 requirement for any future development by the same owner in the
13 same school impact district, or with the written approval of the
14 owner of the credit, to any future development by a different
15 owner in the same school impact district.

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



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

3 ~~[(b) A credit may be applied only against school impact~~
4 ~~fees that would otherwise be due for new residential~~
5 ~~developments for which the payment or contribution was agreed to~~
6 ~~in a written educational contribution agreement.]~~

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

19 ~~[(c) If private construction of school facilities is~~
20 ~~proposed by a developer after July 3, 2007, if the proposed~~
21 ~~construction is acceptable to the department, and if the value~~
22 ~~of the proposed construction exceeds the total impact fees that~~



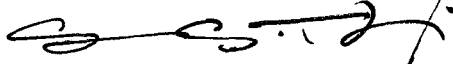
1 ~~would be due from the development, the department shall execute~~
 2 ~~with the developer an agreement to provide reimbursement for the~~
 3 ~~excess credit from the impact fees collected from other~~
 4 ~~developers within the same benefit district. For the purposes~~
 5 ~~of this section, the private construction of school facilities~~
 6 ~~is a "public work" pursuant to chapter 104.]"~~


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

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

12 SECTION 17. This Act shall take effect on July 1, 2009.

13

INTRODUCED BY: Norman Sakuma




Report Title:

DOE; School Impact Fees

Description:

Clarifies the law for determining school impact fees for financing new or expanding existing DOE schools or facilities.

