

DAVID Y. IGE  
GOVERNOR



CRAIG K. HIRAI  
EXECUTIVE DIRECTOR

**STATE OF HAWAII**

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM  
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION  
677 QUEEN STREET, SUITE 300  
Honolulu, Hawaii 96813  
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of  
**Craig K. Hirai**  
Hawaii Housing Finance and Development Corporation  
Before the

**SENATE COMMITTEE ON EDUCATION  
SENATE COMMITTEE ON HOUSING**

February 9, 2017 at 2:56 p.m.  
State Capitol, Room 225

In consideration of  
**S.B. 669**  
**RELATING TO SCHOOL IMPACT FEES.**

The HHFDC *supports the intent* of S.B. 669, but defers to the Department of Education on any fiscal impact the measure may have.

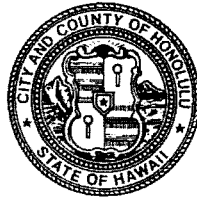
S.B. 669 would exempt housing built by nonprofits reserved for households between 30 and 80 percent of the area median income from school impact fees. We believe that this would reduce the cost to build affordable family housing projects serving low-income families.

Thank you for the opportunity to testify.

DEPARTMENT OF PLANNING AND PERMITTING  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 7<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
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KIRK CALDWELL  
MAYOR



KATHY K. SOKUGAWA  
ACTING DIRECTOR  
  
TIMOTHY F. T. HIU  
ACTING DEPUTY DIRECTOR

February 9, 2017

The Honorable Michelle N. Kidani, Chair  
and Members of the Committee on Education  
The Honorable Will Espero, Chair  
and Members of the Committee on Housing  
Hawaii State Senate  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chairs Kidani and Espero, and Committee Members:

Subject: Senate Bill No. 669  
Relating to School Impact Fees

The Department of Planning and Permitting (DPP) **supports, with a recommended amendment**, House Bill No. 656, which would exempt housing development constructed by a nonprofit housing organization serving persons or families with incomes between 30 and 80 percent of the area median income (AMI) from paying school impact fees.

The City's Islandwide Affordable Housing Strategy includes waivers of City fees to help make affordable housing projects more financially feasible. By charging a school impact fee on these same types of projects, the reduced fees accomplished through the City waivers would be offset by the school impact fees, inhibiting the ability to facilitate affordable housing projects. This result would be counterproductive to both City and State objectives of producing more affordable housing.

The DPP recommends the Bill be amended to exempt, or provide fee reductions for, all types of affordable housing projects serving persons or families with incomes up to 120 percent of the AMI, whether or not developed by a nonprofit organization. These exemptions would include removing the language under section 302A-1603(a), HRS, requiring the school impact fee for "all government housing projects and projects processed pursuant to sections 46-15.1 and 201H-38," and including the exemptions under subsection (b).

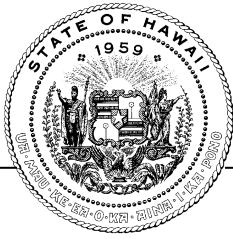
The Honorable Michelle N. Kidani, Chair  
and Members of the Committee on Education  
The Honorable Will Espero, Chair  
and Members of the Committee on Housing  
Senate Bill No. 669  
February 9, 2017  
Page 2

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kathy Sokugawa', written in a cursive style.

Kathy Sokugawa  
Acting Director



**OFFICE OF PLANNING  
STATE OF HAWAII**

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**DAVID Y. IGE**  
GOVERNOR

**LEO R. ASUNCION**  
DIRECTOR  
OFFICE OF PLANNING

Statement of  
**LEO R. ASUNCION**  
Director, Office of Planning  
before the  
**SENATE COMMITTEE ON EDUCATION  
AND HOUSING**

Thursday, February 9, 2017  
2:56 PM

State Capitol, Conference Room 225

in consideration of  
**SB 669**  
**RELATING TO SCHOOL IMPACT FEES.**

Chairs Kidani and Espero, Vice Chairs Kahele and Harimoto, and Members of the Senate Committees on Education and Housing.

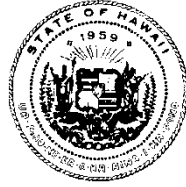
The Office of Planning (OP) supports the intent of SB 669, which proposes to provide an exemption from school impact fees for housing developments constructed by nonprofit housing organizations in which the units are rented or sold to persons or families earning between thirty and eighty percent of the area median income (AMI).

OP agrees that while the school impact fees are necessary to offset the impact of new homes and families on local schools, it can be detrimental to efforts that provide housing to individuals or families – specifically those that fall within the zero to one hundred forty percent AMI.

We also agree that exempting housing development projects in which the units are rented or sold to persons or families earning between thirty and eighty percent of the AMI from school impact fees will encourage developers to provide more low-income housing, increasing the overall affordable housing supply for Hawaii residents. We note however, that including housing development projects that produce units for those individuals or families in the zero to thirty percent AMI and eighty to one hundred forty percent AMI, will provide additional affordable housing supply across the range of unit affordability.

Thank you for the opportunity to testify on this matter.

DAVID Y. IGE  
GOVERNOR



HAKIM OUANSAFI  
EXECUTIVE DIRECTOR

BARBARA E. ARASHIRO  
EXECUTIVE ASSISTANT

**STATE OF HAWAII**  
HAWAII PUBLIC HOUSING AUTHORITY  
1002 NORTH SCHOOL STREET  
POST OFFICE BOX 17907  
HONOLULU, HAWAII 96817

Statement of  
**Hakim Ouansafi**  
Hawaii Public Housing Authority  
Before the

**SENATE COMMITTEE ON EDUCATION  
AND  
SENATE COMMITTEE ON HOUSING**

**Thursday, February 9, 2017  
2:56 PM  
Room 225, Hawaii State Capitol**

In consideration of  
**SB 669**  
**RELATING TO SCHOOL IMPACT FEES**

Honorable Chair Kidani, Honorable Chair Espero, and Members of the Senate Committee on Education and Senate Committee on Housing, thank you for the opportunity to provide testimony concerning Senate Bill 669, relating to school impact fees.

The Hawaii Public Housing Authority (HPHA) supports and provides suggests amendments on SB 668, which provides an exemption from school impact fees for housing developments constructed by nonprofit housing organizations in which the units are rented or sold to persons or families earning between thirty and eighty percent of the area median income.

The proposed language of the bill states that the purpose of the Act is to provide an exemption from school impact fees for housing developments constructed by nonprofit housing organizations. The HPHA respectfully requests that an amendment be made on page 2 starting on line 18 to include HPHA in the exemption. The HPHA also respectfully suggests an amendment to include incomes that are lower than 30%. This will enable access to affordable housing to a greater population of low-income families.

The suggested amendment is follows: (5) Any housing development constructed by a nonprofithousing organization, **the Hawaii public housing authority (authority) or the authority's private public partnerships** in which the units are leased or sold to

persons or families with incomes **below** ~~between thirty and eighty~~ per cent of the area median income as determined by the United States Department of Housing and Urban Development."

The HPHA appreciates the opportunity to provide the Senate Committees on Education and Housing with the HPHA's comments regarding SB 669. We thank you very much for your dedicated support.



February 6, 2017

Hawaii State Capitol  
The Senate  
Committee on Education  
Attn: Senator Michelle N. Kidani, Chair & Senator Kaiali'i Kahele, Vice Chair  
Committee on Housing  
Attn: Senator Will Espero, Chair & Senator Breene Harimoto, Vice Chair  
415 South Beretania Street  
Honolulu, Hawaii 96813

Hearing: Thursday, February 9, 2017  
Time: 2:56 PM  
Subject: SB 669 Relating to School Impact Fees

### TESTIMONY IN OPPOSITION

Chair Kidani, Vice Chair Kahele and members of the Committee on Education & Chair Espero, Vice Chair Harimoto and members of the Committee on Housing:

Thank you for this opportunity to submit testimony in Opposition of the proposed exemption to the DOE impact fee as proposed in SB 669.

I am Kevin Carney, Vice President of EAH Housing. EAH is a 49 year old non-profit public benefit corporation whose mission is to develop, manage and promote affordable rental housing. We are one of the largest non-profit affordable rental housing developers in the western United States. We have developed over 95 affordable rental properties, manage over 100 rental properties and we serve over 20,000 residents in communities in Northern California and on the islands of Kauai, Maui and Oahu. The people we serve are primarily those with incomes at or below 60% of the area median income (AMI).

SB 669 is similar to HB 656 on which EAH has submitted testimony. In general we support any exemption to the DOE Impact Fee for projects that serve the lower income levels. While we as a non-profit appreciate the concern for the projects we develop, we believe it is more important to have as many units built as possible at the 30 to 80% AMI level by all types of developers rather than restrict the exemption to only nonprofit developers. In addition while we may initiate the development as a nonprofit, we sell the low-income housing tax credits we are awarded to for-profit investors which results in the ownership entity of our projects typically becoming a Limited Partnership. We could not do what we do without these for-profit investors.

We are supporting HB1001 which allows an exemption for any form of housing unit (rental or for sale) developed by any developer that serves up to 80% of the AMI and is located within one mile radius of the Honolulu rail transit line.

EAH is opposed to the DOE impact fee because of the additional cost it places on already very difficult to develop low-income rental housing. We trust that you are aware of the housing crisis that is impacting all our islands. Studies show that the greatest need for housing is at or below the 80% level of AMI. At that level of income we are typically referring to rental housing although there are a few non-profits that produce for-sale housing at the 80% level but not on a large scale. In order to make our 60% AMI rental projects financially feasible we need free land and large subsidies. Our rents are fixed by the Department of Housing and Urban Development (HUD). Our largest source of equity is the Low Income Housing Tax Credit Program which is detailed in IRS Code 42. This equity source is typically supplemented by the State's Rental Housing Revolving Fund, HOME Program

Funds, Community Development Block Grant Funds and other non-recourse funds that may be available at the county level. In order to pay the DOE proposed impact fee we would have to rely on these types of sources which are limited and in most cases competitive. Also as presented the DOE impact fee is the same \$9,374 per unit whether you are building micro-units of 300 square feet or condominiums or single family homes of 2,000 plus square feet.

We thank you for taking action in proposing an exemption to a fee that in the long run, as it applies to the residents we serve, would be paid either by the State or County in order to make our projects feasible.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin R. Carney". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Kevin R. Carney, RB-16444  
(PB), NAHP-E  
Vice President, Hawaii  
EAH Housing, RB-16985





46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Executive Director

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## TESTIMONY FOR SENATE BILL 669, RELATING TO SCHOOL IMPACT FEES

**Senate Committee on Education**  
**Hon. Michelle N. Kidani, Chair**  
**Hon. Kaiali'i Kahele, Vice Chair**

**Senate Committee on Housing**  
**Hon. Will Espero, Chair**  
**Hon. Breene Harimoto, Vice Chair**

**Thursday, February 9, 2017, 2:56 PM**  
**State Capitol, Conference Room 225**

Honorable Chair Kidani, Chair Espero, and committee members:

I am Kris Coffield, representing IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 350 members. On behalf of our members, we offer this testimony with comments for Senate Bill 669, relating to school impact fees.

We strongly support the development of affordable housing in Hawai'i. As a state, we must find a balance between the rampant real estate speculation driving up our housing and rental costs and meeting the needs of economically disadvantaged residents. Just as our homeless population has soared in recent years, so, too, has our state's cost of housing. The median price of condominiums on O'ahu increased 8.3 percent in 2016 to \$390,000, while the median price for single-family homes increased by 6.5 percent to \$735,000, according to the Honolulu Board of Realtors. Average rent for a 900-square foot apartment in Honolulu now exceeds \$2,200, with the cost of a four-bedroom home in urban Honolulu now exceeding \$1.1 million.

That said, this proposal may be unconstitutional, per two U.S. Supreme Court cases on exactions and takings, *Nollan v. California Coastal Commission* and *Dolan v. City of Tigard*. These cases require exactions—including impact fees—to bear an “essential nexus” to the reason for imposition and be “roughly proportional” to the impact of the developments on which the exaction is levied. Exempting low-income and affordable housing residents from school impact fees may, unfortunately, violate the Court's decisions, since families living in affordable housing units send children to public schools, often at a greater proportional ratio than families living outside of affordable housing, significantly increasing student capacity and facilities demand.

Additionally, we note that lawmakers, last year, passed Act 130 and Act 237, which expanded the permissible uses of school impact fees in transit oriented development zones along the urban to include renovating existing school structures, with “urban core” defined as the Kalihi to Ala Moana school impact fee district. Hawai’i Community Development Authority officials have plans to approve up to 35,000 additional residential units within a half-mile radius of the nine transit stations from Middle Street to Ala Moana. Moreover, the Hawaii Public Housing Authority is currently redeveloping four housing projects in areas close to the rail line, netting 4,000 new units. Approximately 10,000 students would be generated from the 39,000 multi-family unit build out. Hawai’i State Department of Education leaders have said that “after filling excess classroom capacity in existing schools, there would still be a need to establish facility space for slightly more than 8,500 elementary, middle school and high school students,” translating into six new elementary schools, one-and-a-half middle schools, and one-and-a-half high schools.

Currently, DOE officials estimate that revenue generated from the additional 39,000 units in the Kalihi to Ala Moana district to be \$22,736,872 in \$584-per-unit construction cost component impact fees and the equivalent of 63.5 acres of land, with a fee-in-lieu impact fee amount of \$8,790 per unit. Thus, the total all-cash fee would be \$9,374 per new unit or \$365,586,000, once the district is established by the Hawai’i State Board of Education. At public hearings on the impact fee, affordable housing advocates stated a possible need for an additional \$800,000 in rental housing revolving funds to complete already-approved affordable housing projects, if the fee is implemented. Given the clear distinction between the hundreds of millions of dollars potentially generated by the impact fees, especially in the urban core, and the publicly stated requests from affordable housing developers, we urge your committee to partner with developers in receiving additional revolving funds, rather than exempting low-income and affordable housing from impact fees altogether, which may be unconstitutional and would increase the cost of the fee for units priced just beyond low-income or affordable housing guidelines, such as workforce housing and developments aimed at individuals and families making 80 to 140 percent of area median income. We also note that both low-income and affordable housing developments sometimes contain more expensive units that serve the “moderate-income” market to increase the financial viability of the projects, and not solely units reserved for low-income and affordable housing. Exempting low-income or affordable housing developments *en masse*, then, would exempt those units within low-income or affordable housing developments that are priced beyond lower AMI levels.

Mahalo for the opportunity to testify with comments on this bill.

Sincerely,  
Kris Coffield  
*Executive Director*  
IMUAlliance



**Testimony to the Senate Committee on Education and  
the Senate Committee on Housing  
Thursday, February 9, 2017 at 2:56 P.M.  
Conference Room 225, State Capitol**

**RE: SENATE BILL 669 RELATING TO SCHOOL IMPACT FEES**

Chairs Kidani and Espero, Vice Chairs Kahele and Harimoto, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") would like to **express concerns** regarding SB 669, which provides an exemption from school impact fees for housing developments constructed by nonprofit housing organizations in which the units are rented or sold to persons or families earning between thirty and eighty per cent of the area median income.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

In 2007, the legislature passed Act 245, which created the public school impact fee law. The original Act reflected a general methodology and approach for identifying need areas and calculating appropriate school impact fees for new residential developments. At that time, the only exemptions allowed under the law were:

1. Any form of housing permanently excluding school-aged children, with the necessary covenants or declarations of restrictions recorded on the property;
2. Any form of housing that is or will be paying the transient accommodations tax under chapter 237D;
3. All nonresidential development; and,
4. Any development with an executed education contribution agreement or other like document with the department for the contribution of school sites or payment of fees for school land or school construction.

Our understanding is that impact fees are assessed on new developments, and are intended to minimize the impact on the existing level of service that government provides. For example, if a project generates more traffic on surrounding roads, the theory is the impact fee imposed would provide roadway improvements such that the new project would have no impact on the current level of service provided by the existing roadways (i.e. traffic flow).



# Chamber of Commerce HAWAII

*The Voice of Business*

The school impact fee law was intended to address the need to increase capacity at an existing school or build a new school based on the new students being generated by the new development. Thus, the current exemptions in the law were for projects that did not generate any new students.

With our current housing crisis, it is understandable that legislation is being considered to reduce the cost housing, for families at the 80% and below AMI. However, in doing so, the unintended consequences of such actions will unfairly shift the financial burden imposed by the impact fee on all other housing type above the 80% AMI, including those units identified as affordable and workforce housing (i.e. 140% and below AMI).

In 2014, the National Association of Home Builders (NAHB) prepared a state by state analysis of the number of home buyers impacted for every \$1,000 increases in price. In 2014, 594 households in Hawaii were priced out of the market by a \$1,000 increase in price.

Our concern is that Hawaii's needs to build its way out of our current housing crisis by increasing the supply of housing at all price points. A healthy housing market allows people to purchase housing at price ranges they can afford and as their income improves, provides them with the opportunity to "move up" the housing ladder. Shifting the school impact fee to only apply to buyers at the 80% or more AMI will just add more costs to these units and negatively impact housing affordability in the State.

The housing market has changed dramatically since the impact fee law was passed in 2007. Most of the developments were "greenfield" projects and there was no rail rapid transit project in Honolulu. Now the focus is on urban infill with more compact units and more rental units on government lands in the urban core.

Perhaps it's time to rethink the notion of school impact fees and find other ways to get new public schools built along the transit corridor.

Our opposition to this bill lies with the underlying law rather than the exemption itself. If the bill is moved forward rather than the exemption, we ask the entire law be revised or repealed to better create the opportunity for more affordable housing.

Thank you for the opportunity to testify.