

TAX FOUNDATION OF HAWAII

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SUBJECT: MISCELLANEOUS, Repeal School Impact Fee Exemptions for Transient Accommodations

BILL NUMBER: SB 586

INTRODUCED BY: KEITH-AGARAN, J. KEOHOKALOLE, Baker, S. Chang, Dela Cruz, English, Kanuha

EXECUTIVE SUMMARY: Repeals the school impact fee exemptions for nonresidential development and housing subject to the transient accommodations tax. The exemptions sought to be repealed are consistent with the philosophy of the tax. If a policy decision is made to change the philosophy of the tax, more extensive changes to the tax are required.

SYNOPSIS: Amends HRS section 302A-1603 to delete the existing exemptions for housing that is or will be paying the transient accommodations tax, and for all nonresidential development.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: The Hawaii Revised Statutes contains twelve sections relating to “school impact fees,” starting with section 302A-1601. The law states, in part, “New residential developments within identified school impact districts create additional demand for public school facilities. As such, once school impact districts are identified, new residential developments shall be required to contribute toward the construction of new or expansion of existing public school facilities.”

Builders of large projects within school impact districts are required to provide land for school facilities depending on the numbers of students expected in their projects and the amount of available classroom space in existing area schools. Smaller developers and individual home owner-builders are required to pay a fee instead of land, when their project is too small to entertain a school site. All home builders or buyers must pay a construction cost fee.

Once an impact fee district is established, the DOE is authorized to collect 10% of estimated school construction costs and 100% of estimated land acquisition costs from each residential development planned within the district.

The Board of Education (BOE) used this authority to establish impact fee districts in Central Maui and West Maui in 2010, and in Leeward Oahu in 2012. It approved another district in West Hawaii in 2009, but apparently the Big Island county government didn’t want to cooperate and that district remains an open issue.

The theory behind this law is that high growth will mean more children, and more schools are required to educate them.

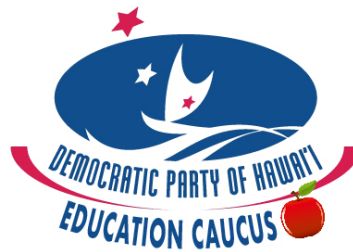
With that background, the exemptions in section 302A-1603 make more sense. If a particular development is not going to house children who are going to use our public schools, it doesn't make sense for that development to pay the school impact fee.

The bill proposes to eliminate these exemptions, which is not consistent with the theory of the impact fee, making the bill look like a pure money grab.

If the Committee desires to go forward with eliminating the exemptions, consideration then must be given to rewriting the legislative findings in section 302A-1601 and the formulas for determining the impact fee in land or in cash, in sections 302A-1606 and -1607. Under the present formula, for example, if a large shopping center is planned with no residential units, the school land area requirement in section 302A-1606(b) will be zero because the incremental number of single-family units and the incremental number of multi-family units will both be zero. Eliminating the exemption, therefore, might not accomplish much unless additional structural changes are made to the tax.

In addition, the accounting and expenditure requirements in section 302A-1608 restrict the expenditure of impact fees for construction of new or expanded schools. The fees are not to be used to replace existing schools, or to maintain or operate existing schools. If the intent is for the additional funds generated to be used to shore up existing facilities, wholesale changes to this section are required.

Digested 1/26/2019



SENATE BILL 586, RELATING TO SCHOOL IMPACT FEES

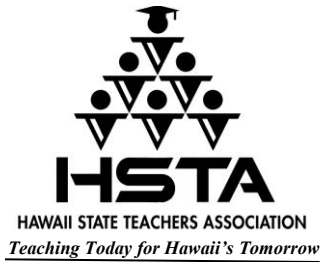
FEBRUARY 13, 2019 · SENATE WAYS AND MEANS
COMMITTEE · CHAIR SEN. DONOVAN M. DELA
CRUZ

POSITION: Support.

RATIONALE: The Democratic Party of Hawai'i Education Caucus supports SB 586, relating to school impact fees, which repeals school impact fee exemptions for nonresidential development and housing subject to the transient accommodations tax.

In 2018, the Hawai'i Board of Education established the Kalihi-Ala Moana School Impact Fee District. Developers of residential units in the urban core will now have to pay \$3,864 when applying for new building permits, helping to offset the cost of educating the children of families living in the estimated 39,000 new dwelling units needed for urban Honolulu in coming years.

Yet, the full potential of impact fees has yet to be realized in Hawai'i, even in places where population density is expected to rapidly escalate because of transit oriented development. While some in the development and building industries may argue that commercial properties do not directly impact school enrollment, the fact remains that business growth contributes to the pace and scale of development, creating jobs that entice families to relocate. Also, commercial and residential properties are often combined into the same development project, with new businesses used to incentivize the sale of neighboring residential units, from which they directly benefit.



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TESTIMONY BEFORE THE SENATE COMMITTEES ON
WAYS AND MEANS

RE: SB 586 - RELATING TO SCHOOL IMPACT FEES

WEDNESDAY, FEBRUARY 13, 2019

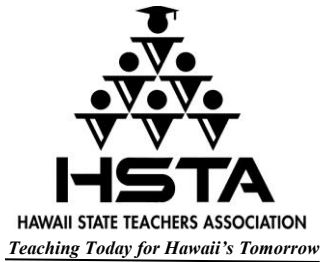
COREY ROSENLEE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION

Chair Dela Cruz, and Members of the Committees:

The Hawaii State Teachers Association **supports SB 586**, relating to school impact fees.

Our state's public school buildings are approximately 66-years-old on average. Facilities are damaged, restrooms and water foundations are in disrepair, classroom windows are broken, and campuses are plagued by rat and insect infestations. Our students, especially those with special needs, are subjected to dilapidated infrastructure. Our state's repair and maintenance backlog is huge and the total cost of lingering projects runs into the hundreds of millions of dollars. Maintenance and capacity problems are particularly painful for developing communities, like the 'Ewa Plain, which will welcome 28,000 more buildings by the year 2021, and Kaka'ako, in which 39,000 new multi-family units are projected to be built within an approximately half-mile radius of rail transit stations, per the Honolulu Community Development Authority. The state will need more funding, that much is clear.

It is important to note that the law has changed for impact fees in 2016 in the urban core and they are able to be used for repair and maintenance of our schools as well. Some may argue that nonresidential development should not have to contribute to our public schools, but quite the contrary is shown from research by the Development, Planning, and Financial Group, Inc., along with the Brookings Institute, that both indicate that new business growth actually contributes to the pace and scale of residential development. New businesses are used to incentivize the sale of neighboring residential units, from which they directly benefit creating



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jobs and thus contributing to the need for more public schools. Nonresidential development also takes a toll on the state's infrastructure in Hawai'i, and public schools are directly impacted. Other areas across the U.S., such as Newark, impose impact fees on nonresidential development along with residential development for the above reasons.

In 2018, the Hawai'i Board of Education established the Kalihi-Ala Moana School Impact Fee District. Developers of residential units in the urban core will now have to pay \$3,864 when applying for new building permits, helping to offset the cost of educating the children of families living in the estimated 39,000 new dwelling units needed for urban Honolulu in coming years. **Nonresidential developments should not be exempt and should also contribute.**

A quality education is priceless and an investment in a strong economy in Hawai'i, we cannot continue to underfund our schools and it is everyone's kuleana. To provide our children with quality school facilities, the Hawaii State Teachers Association asks your committee to **support** this bill.

LATE

DAVID Y. IGE
GOVERNOR



DR. CHRISTINA M. KISHIMOTO
SUPERINTENDENT

STATE OF HAWAII
DEPARTMENT OF EDUCATION
P.O. BOX 2360
HONOLULU, HAWAII 96804

Date: 02/13/2019

Time: 10:00 AM

Location: 211

Committee: Senate Ways and Means

Department: Education

Person Testifying: Dr. Christina M. Kishimoto, Superintendent of Education

Title of Bill: SB 0586 RELATING TO SCHOOL IMPACT FEES.

Purpose of Bill: Repeals the school impact fee exemptions for nonresidential development and housing subject to the transient accommodations tax when seeking development in a designated school impact district requiring county subdivision approval, county building permit, or condominium property regime approval of the project.

Department's Position:

The Hawaii State Department of Education (Department) understands the concerns that have generated the introduction of this bill, but takes no position on SB 586. The Department will continue to need to build new schools and appreciates the opportunity to use impact fees. The Department's focus is on public education, therefore, we defer to the Legislature to determine how best to fund future school needs.

The Hawaii State Department of Education seeks to advance the goals of the Strategic Plan which is focused on student success, staff success, and successful systems of support. This is achieved through targeted work around three impact strategies: school design, student voice, and teacher collaboration. Detailed information is available at www.hawaiipublicschools.org.