

**SB-874**

Submitted on: 2/6/2023 5:05:17 PM

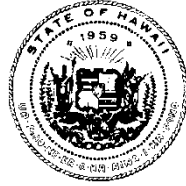
Testimony for HOU on 2/9/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Nani Medeiros	Testifying for Chief Housing Officer, Office of the Governor, State of Hawaii	Support	Written Testimony Only

Comments:

Mahalo for the opportunity to testify in support of SB 874.

JOSH GREEN, M.D.  
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

IN REPLY, PLEASE REFER TO:

Statement of  
**Hakim Ouansafi, Executive Director**  
**Hawaii Public Housing Authority**

Before the  
**Senate Committee on Housing**  
**And**  
**Senate Committee on Education**

1:00 p.m., February 9, 2023  
Hawaii State Capitol  
Room 225

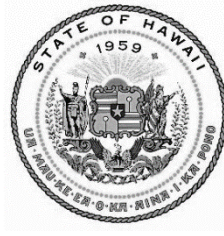
In consideration of  
**SB 874**  
**RELATING TO SCHOOL IMPACT FEES**

Honorable Chair Chang and Chair Kidani, and members of the Senate Committee on Housing and Senate Committee on Education, thank you for this opportunity to provide testimony concerning SB 874, relating to school impact fees.

The Hawaii Public Housing Authority (HPHA) is in **support** of SB 874 which would exempt certain housing developments from school impact fees.

With thousands of low-income families on our public housing waiting lists, the HPHA understands firsthand how desperately the State needs to expand its affordable housing inventory. All of the HPHA's planned redevelopment projects include affordable rental units and therefore require gap financing. While we understand the importance of school impact fees, they can exacerbate this gap and may hurt the feasibility of developing State-owned affordable housing projects. Any increase to the total cost of redevelopment can increase the developer fee. Additionally, some of the gap financing will be requested from the Legislature and would essentially result in the reallocating of State funds between two State entities.

The HPHA appreciates the opportunity to provide the committees with its testimony on SB 874.  
We thank you very much for your dedicated and continued support.



**STATE OF HAWAII**  
**SCHOOL FACILITIES AUTHORITY**  
75 AUPUNI STREET, STE. BASEMENT  
HILO, HAWAII 96720

February 09, 2023

**Testimony providing COMMENTS on SB874  
RELATING TO SCHOOL IMPACT FEES**

SENATOR STANLEY CHANG, CHAIR  
SENATE COMMITTEE ON HOUSING  
SENATOR MICHELLE N. KIDANI, CHAIR  
SENATE COMMITTEE ON EDUCATION

Hearing Date: 02/09/2023

Room Number 225

The School Facilities Authority (SFA) **offers comments** on S.B. 874, RELATING TO SCHOOL IMPACT FEES.

School impact fees were created to assist with the needs of school capacity as residential growth occurs. The Board of Education has established four school impact districts encompassing the following areas:

1. Kalihi-Ala Moana
2. Leeward Oahu
3. West Maui
4. Central Maui

The SFA appreciates the difficult determination the Legislature must make in determining how to prioritize the limited funding it has. It is unclear how many developments are planned for the four designated areas but notes that capacity concerns exist within the schools encompassed in those districts and additional residential development is likely to spur additional funding requests for school capacity projects.

Thank you for the opportunity to provide testimony.



STATE OF HAWAII  
DEPARTMENT OF EDUCATION  
KA 'OIHANA HO'ONA'AUAO  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

**Date:** 02/09/2023  
**Time:** 01:00 PM  
**Location:** CR 225 & Videoconference  
**Committee:** Senate Housing  
Senate Education

**Department:** Education  
**Person Testifying:** Keith T. Hayashi, Superintendent of Education  
**Title of Bill:** SB 0874 RELATING TO SCHOOL IMPACT FEES.  
**Purpose of Bill:** Exempts certain housing developments from assessments of school impact fees.

**Department's Position:**

The Hawaii State Department of Education (Department) offers comments on SB 874.

Hawaii's school impact fee law, Sections 302A-1601-1612, Hawaii Revised Statutes (HRS), plays a vital role in the development of new school facilities in designated areas where the construction of new housing directly increases student enrollment. Other than direct appropriations from the legislature, school impact fees are the only other source of funding to support the development of new school facilities for the Department.

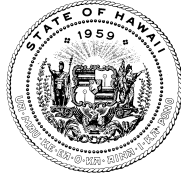
The Legislature created school impact fees in 2007, with amendments in 2010 and 2016. Section 302A-1603 (a)(3), HRS, specifies that anyone who develops new residences in a school impact fee district must pay impact fees "including all government housing projects." Until June 30, 2024, Section 302A-1603, HRS, exempts any form of housing developed by the Department of Hawaiian Home Lands for use by beneficiaries of the Hawaiian Homes Commission Act of 1920.

Although the Department recognizes the importance and need for affordable housing, adding additional exemptions would limit funding resources intended to address the impacts on school facilities generated by these new developments.

Thank you for this opportunity to provide testimony on SB 874.

**JOSH GREEN, M.D.**  
GOVERNOR  
STATE OF HAWAII  
*Ke Kia 'āina o ka Moku 'āina 'o  
Hawai'i*

**SYLVIA J. LUKE**  
LT. GOVERNOR  
STATE OF HAWAII  
*Ka Hope Kia 'āina o ka Moku 'āina  
'o Hawai'i*



**IKAIKA ANDERSON**  
CHAIRMAN DESIGNATE, HHC  
*Ka Luna Ho'okele*

**KATIE L. DUCATT**  
DEPUTY DESIGNATE TO THE  
CHAIRMAN  
*Ka Hope Luna Ho'okele*

**STATE OF HAWAII**  
**DEPARTMENT OF HAWAIIAN HOME LANDS**  
*Ka 'Oihana 'Āina Ho'opulapula Hawai'i*

P. O. BOX 1879  
HONOLULU, HAWAII 96805

**TESTIMONY OF IKAIKA ANDERSON, CHAIRMAN-DESIGNATE  
HAWAIIAN HOMES COMMISSION  
BEFORE THE SENATE COMMITTEE ON HOUSING AND  
THE SENATE COMMITTEE ON EDUCATION  
HEARING ON FEBRUARY 9, 2023 AT 1:00PM IN CR 225**

**SB 874, RELATING TO SCHOOL IMPACT FEES**

February 9, 2023

Aloha Chair Chang, Chair Kidani, and members of the Committees:

The Department of Hawaiian Home Lands submits comments for this measure which exempts certain housing developments from assessments of school impact fees. The department appreciates the intent of this bill. DHHL strongly supports and prefers the language in SB 1358 as an appropriate measure for the department to achieve this purpose.

Thank you for your consideration of our testimony.

*Expanding the range of opportunities for all by  
developing, managing and promoting quality  
affordable housing and diverse communities.*



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Testimony of EAH Housing | Hawai'i Region  
RELATING TO SB874

February 09, 2023 at 1:00 PM  
Written Testimony Only

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**Senate Committee on Housing**

Chair Stanley Chang, Vice Chair Dru Kanuha,  
Members Henry Aquino, Karl Rhoads, and Brenton Awa

**Senate Committee on Education**

Chair Michelle Kidani, Vice Chair Donna Mercado Kim,  
Members Dru Kanuha, Herbert Richards, III, and Kurt Fevella

**SUPPORT**

The amendments to Section 302A-1603, Subsection (b) will meaningfully reduce costs for the development of family affordable housing projects by exempting payment of school impact fees.

While there is no one regulatory change that will eliminate financial barriers in developing affordable housing, this cost reduction in the production of housing will have a cumulative impact in a positive direction. This decrease in cost will reduce the amount of housing subsidy funds required per unit, thereby releasing housing funds to be applied directly to the costs of creating affordable housing.

Thank you for the opportunity to provide input on SB874.

A handwritten signature in black ink that reads "Karen Seddon". The signature is written in a cursive, flowing style.

Karen Seddon, Regional Vice President  
EAH Housing

EAH Housing is a non-profit corporation founded with the belief that attractive affordable rental housing is the cornerstone to sustainable, healthy, and livable communities.

1001 Bishop Street, Suite 2880  
Honolulu, Hawaii 96813  
(808) 466-7774





February 8, 2023

Senator Stanley Chang, Chair  
Senator Dru Kanuha, Vice Chair  
Members of the Committee on Housing

Senator Michelle Kidani, Chair  
Senator Donna Mercado Kim, Vice Chair  
Members of the Committee on Education

RE: **SB 874 – RELATING TO SCHOOL IMPACT FEES**  
**Hearing date – February 9, 2023 at 1:00 p.m.**

Aloha Chair Chan, Chair Kidani and members of the committees,

Thank you for allowing NAIOP Hawaii to submit testimony with **SUPPORT ON SB 874 – RELATING TO SCHOOL IMPACT FEES**. NAIOP Hawaii is the Hawaii chapter of the nation's leading organization for office, industrial, retail, residential and mixed-use real estate. NAIOP Hawaii has over 200 members in the State including local developers, owners, investors, asset managers, lenders and other professionals.

SB 874 creates exemptions for certain housing developments from assessments of school impact fees. These new exemptions include:

1. Housing that provides 80% of units for 15 years to qualified individuals earning up to 100% AMI;
2. Development constructed under the affordable rental housing development program or for-sale developers administered by HHFDC;
3. Projects exempt from GET under HRS 201H-36;
4. Development receiving funds from the Rental Housing Revolving Fund or LIHTC;
5. Development on federal, state or county owned land;
6. Housing who are owner-occupants and own no other property; and
7. Development that use HUD funding.

NAIOP Hawaii is supportive of SB 874 which will help decrease the cost of affordable housing. While we understand the need for school impact fees, NAIOP Hawaii is supportive of the proposed exemptions which will further the production of housing units for residents.

Senator Stanley Chang, Chair  
Senator Dru Kanuha, Vice Chair  
Members of the Committee on Housing  
February 8, 2023  
Page 2

The costs of school impacts can become costly and increase the construction of housing projects. Implementing exemptions for projects which meet the enumerated criteria will further streamline constructing units and ensure that all funding for a project is focused towards building housing for local families.

Hawaii residents are in need of housing and these credits will continue development of units. Accordingly, NAIOP Hawaii supports all tools which get homes built for our residents. Thank you for the opportunity to testify on this measure.

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read "Camp", written in a cursive style.

Jennifer Camp, President  
NAIOP Hawaii



**SENATE COMMITTEE ON LABOR & TECHNOLOGY  
State Capitol, Room 224  
415 South Beretania Street  
3:00 PM**

February 9, 2023

RE: SB 874 - RELATING TO SCHOOL IMPACT FEES

Chair Moriwaki, Vice Chair Lee, and members of the committee:

My name is Max Lindsey, 2023 Government Relations Committee Chair of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii. Our members build the communities we all call home.

**BIA Hawaii supports the intent of SB 874, Relating to School Impact Fees.** This bill exempts certain housing developments from assessments of school impact fees.

We appreciate the intent of this bill to exempt affordable housing projects from school impact fees. School impact fees are used to mitigate the impact of a proposed project on existing schools in the area. While we agree with waiving impact fees in order to allow for more affordable projects to be “penciled out” by the developer, exemptions from impact fees should also be based on whether or not the project will impact the public infrastructure and/or facilities.

The state of Hawaii is in a dire housing crisis. As the Legislature is aware, the cost of housing in Hawaii is extremely high, with Oahu’s median price of homes being currently over \$1 million. Approximately 153,967 U.S. households are priced out of buying a home for every \$1000 increase in price, according to the National Association of Home Builders (NAHB). We are in support of legislation that would allow for the building of much-needed housing at every price point in Hawaii.

We appreciate the opportunity to testify on SB 874.



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& DEVELOPMENT  
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House Committee on Housing  
Conference Room 225  
State Capitol  
415 Beretania St.  
1:00 PM

February 9, 2023

RE: SB874 RELATING TO SCHOOL IMPACT FEES

Chairs Chang and Kidani, Vice Chairs Kanuha and Kim, and members of the committees,

I am writing in **STRONG SUPPORT** of SB874 Relating to School Impact Fees. I am a Developer and Construction Manager for Bill 7 affordable rental housing projects and I would like to share with you some of the challenges we face.

Our first project fell outside the boundaries of where these School impact fees apply. Because of this and favorable interest rates at the time we were able to break ground on a 26 unit affordable rental project. Our budgets are so tight that we are taking extraordinary cost cutting measures. For example we can't afford finish flooring, so all interiors are integral colored concrete. We had to remove all of our gates leaving the property less secure and we can't even afford to paint all of the building.

Our second project which is a 25 unit building falls within the school impact fee area can't even qualify for financing currently. The DOE assessment on these 25 rental units set aside for those earning 80% AMI and below are \$93,500. The cornerstone of the success of these types of projects is extremely diligent and rigorous cost control. We take no money from any government agency, we are just asking for the same consideration to allow us help fix our affordable housing crisis. For these reasons I humbly ask for your support of SB874.

Sincerely,

Greg Thielen  
President/RME

Center for Hawaiian Sovereignty Studies  
46-255 Kahuhipa St. Suite 1205  
Kane'ohe, HI 96744  
(808) 247-7942

Kenneth R. Conklin, Ph.D. Executive Director  
e-mail [Ken\\_Conklin@yahoo.com](mailto:Ken_Conklin@yahoo.com)  
Unity, Equality, Aloha for all



To: SENATE COMMITTEE ON HOUSING; and  
SENATE COMMITTEE ON EDUCATION

For hearing Thursday, February 9, 2023

Re: SB 874 RELATING TO SCHOOL IMPACT FEES.

Exempts certain housing developments from assessments of school impact fees.

TESTIMONY OPPOSING CERTAIN PROVISIONS OF THIS BILL

Some provisions in this bill seem reasonable, because they exempt assessments of school impact fees for housing developments where there will be no school-age children living there, such as (1)

Any form of housing permanently excluding school-aged children, with the necessary covenants or declarations of restrictions recorded on the property.

Some provisions of this bill seem reasonable, because they exempt assessments of school impact fees for housing developments where the developers actually build schools on their own land with sufficient capacity to handle the children who will be living there, such as (4) Any development with an executed education contribution agreement or other like document with the authority or the department for the contribution of school sites or payment of fees for school land or school construction.

However, some provisions of this bill explicitly provide exemptions based solely on race and are therefore unconstitutional under the 14th Amendment Equal Protection Clause, such as

(5) Any form of housing developed by the department of Hawaiian home lands for use by beneficiaries of the Hawaiian Homes Commission Act, 1920, as amended

And additional provisions of this bill would likely result in race-based exemptions on DHHL lands even in the absence of #5, such as

(8) Any development or project that is exempt from general excise taxes pursuant to section 201H-36; and

(9) Any development receiving federal, state, or county funds such as from the rental housing revolving fund or low-income housing tax credits

Wouldn't it be a wonderful idea to exempt all housing development from general excise tax? That would provide a real incentive to help solve the housing shortage blamed for homelessness and high prices. But this bill singles out one racial group to enjoy such an exemption, while everyone else must pay the tax. That is an example of what is known as "systemic racism" -- setting up an entire system in a way that benefits or harms people because of their race. Whatever happened to diversity, equity, and inclusiveness?

What about exempting DHHL development from school impact fees? Do ethnic Hawaiians not make babies and have children? If DHHL builds its own schools to educate children who live in their own ghettos, then of course they should not have to pay school impact fees to the general public schools that serve non-ethnic-Hawaiians. Read my book "Hawaiian Apartheid: Racial Separatism and Ethnic Nationalism in the Aloha State."

<http://tinyurl.com/2a9fqa>

The attitude projected in this sort of legislation exemplifies what I wrote about.

Please amend this bill to make it race-neutral before sending it forward. Otherwise it should be rejected.

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Adds Multiple Exemptions to School Impact Fees

BILL NUMBER: SB 874

INTRODUCED BY: CHANG, MCKELVEY

EXECUTIVE SUMMARY: Exempts certain housing developments from assessments of school impact fees.

SYNOPSIS: Amends section 302A-1603, HRS, by adding seven more exemptions to the existing six exemptions to the school impact fee:

- (6) Any form of housing that provides eighty per cent of units as affordable for fifteen years to qualified individuals earning up to one hundred per cent area median income with rents at or below rental limits set by the Department of Housing and Urban Development;
- (7) Any development constructed under the affordable rental housing development program or for-sale developments administered by the Hawaii housing and finance development corporation pursuant to chapter 201H;
- (8) Any development or project that is exempt from general excise taxes pursuant to section 201H-36;
- (9) Any development receiving federal, state, or county funds such as from the rental housing revolving fund or low-income housing tax credits;
- (10) Any development constructed on federal, state, or county-owned land;
- (11) Any form of housing that is available only for Hawaii residents who are owner-occupants and who own no other real property; and
- (12) Any development that utilizes Department of Housing and Urban Development funding.

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. The formulas in sections 302A-1606 and -1607 for calculating the fee come up with a land value and dollar value for each new single-family unit and each multi-family unit. It makes sense to exempt construction where no new unit is being created, for it would be rational to presume that no additional living unit means that there would not be additional children to educate. By the same token, exempting additional living units even though they can house families and children does not seem to be in line with the philosophy of the tax and will, at a minimum, cause others to pay for the schools needed for the additional children in those units.

Digested: 2/6/2023

February 9, 2023

**LATE**

TO: The Senate  
The Thirty-Second Legislature 2023  
Committee on Housing  
Conference Room 225  
State Capitol  
415 South Beretania Street

RE: SB 874 RELATING TO SCHOOL IMPACT FEES

Senator Stanley Chang, Chair  
Senator Dru Mamo Kanuha, Vice Chair  
Committee Members

I am writing in **SUPPORT** of SB874 Relating to School Impact Fees. I am a licensed Architect in Hawaii and currently working on seven Bill 7 affordable rental housing projects in the Honolulu area. Cost of construction and interest rates are on the rise since a few years ago are making it difficult for my clients to build affordable housing that is sorely needed. Any fee waivers will be an enormous advantage in seeing all of my projects being built.

I humbly request your support for SB 874.

Sincerely,



Brian K. Fujiwara, AIA  
BKF & Associates, LLC

**SB-874**

Submitted on: 2/7/2023 8:32:20 AM

Testimony for HOU on 2/9/2023 1:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kevin Carney	Individual	Support	Written Testimony Only

Comments:

Senate Committees on Housing and Education, AHC Hawaii is in very strong support of SB874 which would exempt various types of housing from the DOE Impact Fee. In particular the DOE Impact Fee presents a costly burden on the production of family low income affordable rental housing serving those at 60% of the AMI and below. Developers will typically increase the amount of their request for Rental Housing Revolving Funds (RHRF) to cover the cost of this Fee. This essentially moves funds from one state department to another while increasing the need for more funding directed to the RHRF.

Please give SB 874 your strongest support.

Mahalo,

Kevin R. Carney

President & Principal Broker