

JOSH GREEN, M.D.  
GOVERNOR



KEITH T. HAYASHI  
SUPERINTENDENT

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

**Date:** 03/03/2023

**Time:** 10:15 AM

**Location:** CR 211 & Videoconference

**Committee:** Senate Ways and Means

**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.

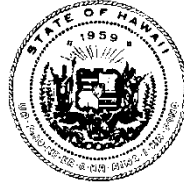
The Legislature created school impact fees in 2007, with amendments in 2010 and 2016. Section 302A-1603 (a)(3), HRS, specifies that anyone who develops new residences in a school impact fee district must pay impact fees "including all government housing projects." Until June 30, 2024, Section 302A-1603, 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



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 Ways and Means**

10:15 a.m., March 3, 2023  
Hawaii State Capitol  
Room 211

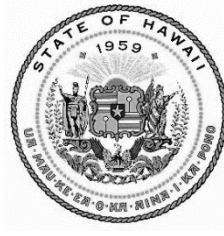
In consideration of  
**SB 874**  
**RELATING TO SCHOOL IMPACT FEES**

Honorable Chair Dela Cruz, and members of the Senate Committee on Ways and Means, 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 committee 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

March 3, 2023

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

SENATOR DONOVAN DELA CRUZ, CHAIR  
SENATE COMMITTEE ON WAYS AND MEANS

Hearing Date: 03/03/2023

Room Number 208

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.

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Unity, Equality, Aloha for all



To: SENATE COMMITTEE ON WAYS AND MEANS

For hearing Friday, March 3, 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.



March 2, 2023

Senator Donovan Dela Cruz, Chair  
Senator Gilbert S.C. Keith-Agaran, Vice Chair  
Members of the Committee on Ways and Means

RE: **SB 874 – RELATING TO SCHOOL IMPACT FEES**  
**Hearing date – March 3, 2023 at 10:15 a.m.**

Aloha Chair Dela Cruz, Chair Keith-Agaran and members of the committee,

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.

The costs of school impacts can become costly and increase the construction of housing projects. Implementing exemptions for projects which meet the enumerated



Senator Donovan Dela Cruz, Chair  
Senator Gilbert S.C. Keith-Agaran, Vice Chair  
Members of the Committee on Ways and Means  
March 2, 2023  
Page 2

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", with a stylized flourish at the end.

Jennifer Camp, President  
NAIOP Hawaii

# 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: Senate Committees on Housing and Education

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

**LATE**

**SB-874**

Submitted on: 3/2/2023 5:51:17 PM

Testimony for WAM on 3/3/2023 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Derek Lock	Testifying for HNL Development LLC	Support	Written Testimony Only

Comments:

Aloha Chair Dela Cruz, Chair Keith-Agaran and members of the committee,

I am writing in strong support of SB874. In June 2020, our development group paid the DOE fee of \$96,600 in order to receive a building permit to build twenty-five one bedroom one bath affordable apartment rental units in lower Liliha. It did not make sense then and in this high interest rate environment it does not make any more sense now. We need to support Oahu's essential workforce as they are suffering to find affordable places to live. Our essential workers will continue to leave the state for another housing market unless we do something about it. Freeing affordable housing developments from the DOE Fee will create more housing opportunities for our much needed workforce.

Mahalo for this opportunity to support SB874.

Derek Lock for HNL Development LLC

**SB-874**

Submitted on: 3/2/2023 9:40:26 AM

Testimony for WAM on 3/3/2023 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Chris Flaherty	Testifying for Ikenakea Development	Support	Written Testimony Only

Comments:

I am in support of SB874 as it will reduce the costs to produce affordable housing and it will help have a cumulative effect in reducing the need to use other state resources to create affordable housing.

Kind Regards-

Chris Flaherty

Ikenakea Development, LLC

**SB-874**

Submitted on: 3/2/2023 10:44:55 AM

Testimony for WAM on 3/3/2023 10:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Robert Kurisu	Individual	Support	Written Testimony Only

Comments:

Aloha,

Thank you for the opportunity to provide written testimony in **SUPPORT of SB874**. Our family of companies, affiliates, volunteer organizations and friends were part of the hui that created Kahauiki. That project would not have been possible without government and community support.

Affordable housing of all types, including those like Kahauiki, require community and government support, and the DOE School Impact fee diminishes the feasibility of these projects. If the State's goal is to deliver more affordable housing units for its residents, exempting affordable housing projects from the DOE School Impact Fee is the prudent thing to do.

One of our next projects is a Bill 7 adaptive reuse project, delivering 52 units for 80% AMI residents. This can and hopefully will provide housing for many teachers and other DOE employees who are eligible. If providing housing for DOE teachers and employees to attract and retain talent is a priority of the State, providing a more feasible path for affordable housing projects far outweighs the dollar amount in fees that the DOE is collecting from this assessment. The aggregate amount of fees DOE collects from this assessment could not deliver a dollar equivalent amount of units that the pathway for affordable housing projects provide for teachers and DOE employees.

Further, the intent of affordable housing projects is to provide a lower cost of living for the people of Hawaii, which often includes families with children. Most often this means they already live, work and go to school in the area - hence - the impact on the area schools are minimal.

To the Honorable Chair Dela Cruz and members of the Senante Committee on Ways and Means, thank you for your consideration and please support SB874.

Sincerely,

Robert K. Kurisu

**LATE**

**SB-874**

Submitted on: 3/2/2023 12:44:23 PM

Testimony for WAM on 3/3/2023 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Stan Sato	Individual	Support	Written Testimony Only

Comments:

I support SB874. We need more affordable housing projects and this Bill will better help financially limited projects become a reality. Thank you.

**LATE**

**SB-874**

Submitted on: 3/2/2023 3:25:17 PM

Testimony for WAM on 3/3/2023 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jay R Kadowaki	Individual	Support	Written Testimony Only

Comments:

Please exempt affordable housing units from the DOE School Impact Fee.



**LATE**

**SB-874**

Submitted on: 3/2/2023 7:45:58 PM

Testimony for WAM on 3/3/2023 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Nathan Okubo	Individual	Support	Written Testimony Only

Comments:

Dear Chair Dela Cruz, Vice Chair Agaran, and Committee Members,

I support SB874 as a means to incentivize the construction of affordable housing in Hawaii.

Thank you for the opportunity to submit this testimony.

Sincerely,

Nathan Okubo