



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

**Date:** 02/26/2024

**Time:** 12:30 PM

**Location:** 308 VIA VIDEOCONFERENCE

**Committee:** House Finance

**Department:** Education

**Person Testifying:** Keith T. Hayashi, Superintendent of Education

**Title of Bill:** HB 2091, HD1 RELATING TO SCHOOL IMPACT FEES.

**Purpose of Bill:** Exempts from the school impact fees the development of certain housing developments with income restrictions and additional or accessory dwelling units. Effective 6/30/3000. (HD1)

**Department's Position:**

The Hawaii State Department of Education (Department) offers comments on HB 2091, HD1. Hawaii's school impact fee law, Hawaii Revised Statute (HRS) Sections 1601-1612, provides funding for 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 and in some cases, land dedication to support the development of new school facilities for the Department.

The Department appreciates the amendments made to the bill that keeps the school impact fees in statute. The Legislature created school impact fees in 2007, with various amendments over the years to clarify its intent. HRS Section 302A-1603 (a) (3) specifies that anyone who develops new residences in a school impact fee district must pay impact fees. Although the Department recognizes the importance and need to reduce the cost of housing, expanding the exemptions from the school impact fee would limit funding resources and the dedication of land required to address the impacts on school facilities generated by new residential developments.

Thank you for this opportunity to provide comments on HB 2091, HD1.



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

## House Committee on Finance

Monday, February 26, 2024  
12:30 p.m.  
Hawai'i State Capitol, Room 308

### House Bill 2091, House Draft 1, Relating to School Impact Fees

Dear Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

The School Facilities Authority (SFA) provides **comments** on House Bill 2091, House Draft 1, which would exempt certain housing developments with income restrictions and additional or accessory dwelling units from school impact fees.

SFA does not oppose additional exemptions from school impact fees. Funds collected from school impact fees have historically been difficult to use because the amounts collected are typically not enough to cover a single project under the narrow allowable uses. Further, the SFA is still developing systems to collect, manage, and expend school impact fees, which makes using the fees even more challenging. The Department of Education currently administers school impact fees.

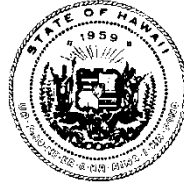
One of the areas of focus for the SFA is developing workforce housing for educators. The existence of school impact fees adds another challenge to that effort. However, exempting housing developments for individuals with an income at or below 140% of the area median income could prove helpful.

Thank you for this opportunity to testify.

Sincerely,

Riki Fujitani  
Interim Executive Director

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  
**HOUSE COMMITTEE ON FINANCE**

**Monday, February 26, 2024**  
**12:30 PM – Room 308, Hawaii State Capitol**

In consideration of  
**HB 2091, HD1**  
**RELATING TO SCHOOL IMPACT FEES**

Honorable Chair Yamashita and members of the House Committee on Finance, thank you for the opportunity to provide testimony on House Bill (HB) 2091, HD1.

The Hawaii Public Housing Authority (HPHA) is in **support** of HB 2091, HD1 which exempts from the school impact fees the development of certain housing developments with income restrictions and additional or accessory dwelling units.

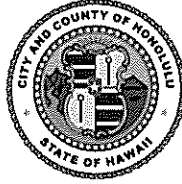
With thousands of low-income families on our public housing waiting lists, the HPHA understands firsthand how desperately the State needs to expand its affordable housing inventory. All of the HPHA's planned redevelopment projects include affordable rental units and therefore require gap financing. While 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 testimony to the Committee in support of this measure. We thank you very much for your dedicated efforts.

**OFFICE OF HOUSING**  
**KE KE'ENA HO'OLĀLĀ KŪKULA HALE**  
**CITY AND COUNTY OF HONOLULU**

530 SOUTH KING STREET, ROOM 306 • HONOLULU, HAWAII 96813  
PHONE: (808) 768-4675 • FAX: (808) 768-4242 • WEBSITE: www.honolulu.gov/housing

RICK BLANGIARDI  
MAYOR  
MEIA



DENISE ISERI-MATSUBARA  
EXECUTIVE DIRECTOR  
PO'O HO'OKO

KEVIN AUGER  
DEPUTY DIRECTOR  
HOPE PO'O

February 26, 2024

2024-HOU-012

The Honorable Kyle Yamashita, Chair  
The Honorable Lisa Kitagawa, Vice Chair  
and Members of the House Committee on Finance  
Hawai'i State Capitol  
415 South Beretania Street  
Honolulu, Hawai'i 96813

Dear Chair Yamashita, Vice Chair Kitagawa, and Committee Members:

SUBJECT: Testimony in Strong Support of HB2091, HD1 – Relating to School Impact Fees  
Hearing: Mon., Feb. 26, 2024, 12:30 p.m. at the State Capitol, Rm. 308

The Office of Housing **strongly supports** HB2091, HD1 to exempt the development of affordable housing from school impact fees. School impact fees add thousands of dollars to the cost of developing residential housing units. These fees are ultimately passed on to renters and buyers of these units, which in turn lead to higher rents, sales prices, and in some cases, can render affordable housing projects financially infeasible.

As the Auditor's Report points out, these fees have not led to the construction of new schools; millions of dollars of collected fees went unspent and there is no clear evidence that school impact fees serve their original intended purpose or provide a clear benefit to the community.


We support the removal of additional fees that adversely affect the delivery of urgently needed affordable housing for our community and we urge your committee to pass HB2091, HD1 to exempt the development of affordable housing from these fees.

Thank you for the opportunity to testify on this matter.

Sincerely,

  
Denise Iseri-Matsubara  
Executive Director

APPROVED:

  
Michael D. Formby  
Managing Director

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Add Exemptions to School Impact Fees

BILL NUMBER: HB 2091 HD 1

INTRODUCED BY: House Committee on Housing

EXECUTIVE SUMMARY: Exempts from the school impact fees the development of certain housing developments with income restrictions and additional or accessory dwelling units.

SYNOPSIS: Amends section 302A-1603, HRS, by adding the following two new exemptions to subsection (b):

- Any development where one hundred per cent of the units are for individuals with an income at or below one hundred forty per cent of the area median income, as determined by the United States Department of Housing and Urban Development;
- Any development of an additional or accessory dwelling unit, as defined by each county;

EFFECTIVE DATE: June 30, 3000.

STAFF COMMENTS: For background and our perspective on this subject, we are reprinting here our Weekly Commentary to be published on Feb. 11, 2024:

## Hoarding School Impact Fees

By Tom Yamachika, President

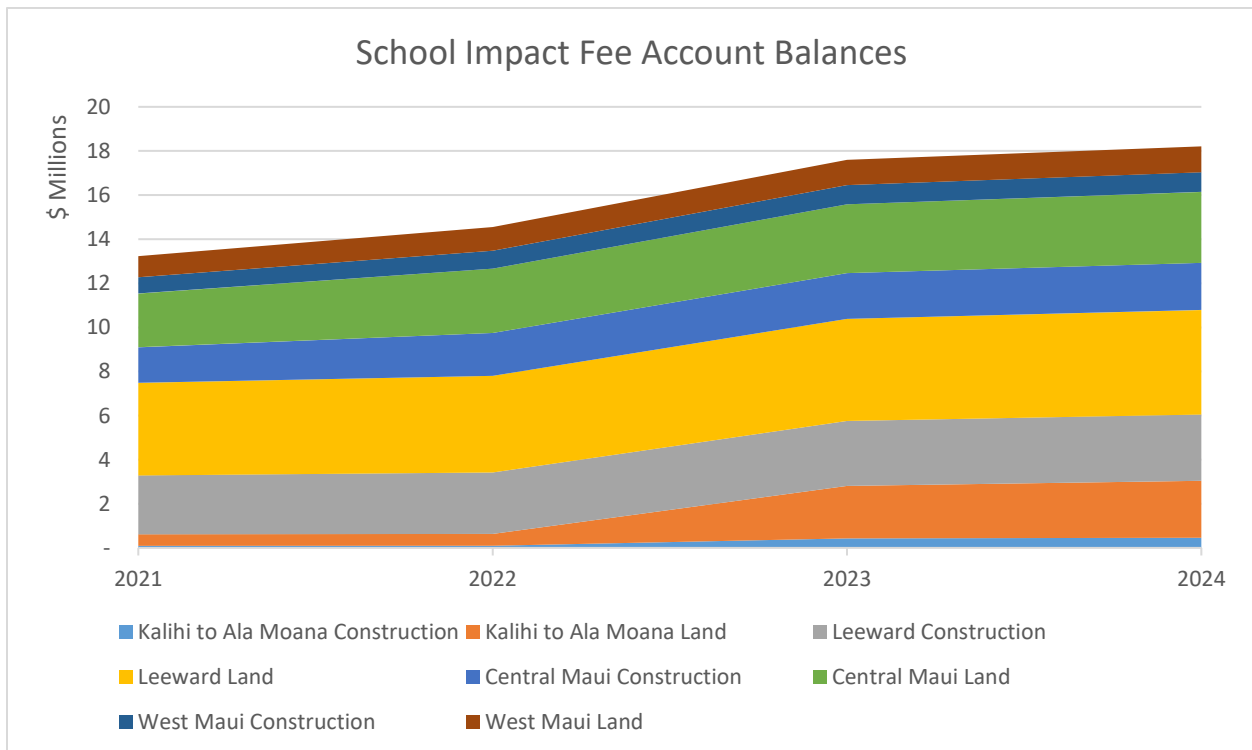
Here in Hawaii, our Department of Education is unique in several respects. In most states, K-12 education is handled by localities such as towns and counties and is largely funded by property tax. Our DOE, however, is [descended from royalty](#) – it was established by King Kamehameha III in 1840 – and it now runs education statewide. No property tax is used to fund education; our state constitution now says that the property tax is the exclusive kuleana of the counties.

The DOE also is unique in that it is the only state agency with the power to impose a tax. (Even the Department of Taxation only administers and enforces taxes imposed by laws enacted by the legislature.) The tax that DOE imposes is called the school impact fee. [We have written about it before](#). Basically, developers of housing projects are required to provide land for school facilities depending on the number of kids that the projects are expected to house and the amount of capacity (or lack thereof) in the schools that now serve those projects. Builders in the same districts that are too small to be expected to provide land are required to cough up some money instead. In addition, all home builders or buyers must pay a construction cost fee.

Currently, there are four school impact fee districts: two on Oahu and two on Maui. The most recent one is known as the Kalihi to Ala Moana school impact district, and it basically follows the path of the Skyline rail project once it hits urban Honolulu.

Five years ago, the State Auditor, in [Report No. 19-13](#), found that “the school impact fee law has been of questionable ‘impact.’” It allows DOE to collect money, but not that much. As of the end of 2018, DOE had collected \$5.3 million – at a time when it cost \$80 million, approximately, to build one elementary school. Also, the Auditor found that while the DOE was able to spend a few million dollars out of “fair share contributions,” which is what developers and DOE negotiated before the school impact fee law was enacted in 2007, zero – not one thin dime – was spent out of the impact fees collected. Only one (1) person at DOE was assigned to implement the impact fee – apparently an indication of how important it is within DOE.

We examined the school impact fee fund balances between fiscal 2021 and 2024 and found that the cumulative balances swelled from \$13 million to \$18 million.



Source: [Department of Education](#)

Maybe these monies are not enough to build a whole school, but there is surely enough here to take care of some new or replacement facilities. But it looks like none of it is being used. Each of the fund balances is steadily increasing. If some of it was being spent, we would expect some dips in the balances over time – there don't seem to be any.

Re: HB 2091 HD 1

Page 3

Someone needs to get on the ball here. We don't think developers and other taxpayers gave money to DOE just for that money to sit around doing nothing. Legislators don't appropriate money to DOE [just to see the appropriations lapse in a few years](#). Don't hoard that money, use it for the public good! King Kamehameha III would not be happy with the current state of affairs.

Digested: 2/23/2024



COMMERCIAL REAL ESTATE  
DEVELOPMENT ASSOCIATION

HAWAII CHAPTER

February 25, 2024

Representative Kyle Yamashita, Chair  
Representative Lisa Kitagawa, Vice Chair  
Committee on Finance

RE: **HB 2091 HD1 – RELATING TO SCHOOL IMPACT FEES**  
**Hearing date – February 26, 2024 at 12:30 P.M.**

Aloha Chair Yamashita, Vice Chair Kitagawa and members of the committee,

Thank you for allowing NAIOP Hawaii to submit testimony with **COMMENTS ON HB 2091 HD1 – 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.

HB 2091 HD1 amended the previous version to reinstate the school impact fees while expanding exemptions from the school impact fees to include the development of certain housing development with income restrictions and additional accessory dwelling units. Based on a report by the State auditor, the legislature has determined that the collection of school impact fees have not been utilized for the construction of new schools and there is a substantial amount of collected fees that remain unused in a special fund.

While NAIOP Hawaii prefers the original version of the bill which completely removed school impact fees, we are supportive of HB 2091 HD1 which will help decrease the cost of affordable housing. While we understand the need for school impact fees, however, it is evident that Hawaii residents are in desperate need of housing, and eliminating school impact fees will play a vital role in continuing the development of much-needed housing units. By freeing housing developments from the obligation to pay the school impact fee, Hawaii can create more housing opportunities for our essential workforce.

The costs of school impacts can become costly and increase the construction of housing projects. Repealing the school impact fees for housing projects will further streamline construction of units and ensure that all funding for a project is focused towards building housing for local families. 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,

Reyn Tanaka, President  
NAIOP Hawaii



February 26, 2024

TO: Chair Yamashita and members of the Hawai'i State House Finance Committee  
RE: HB 2091 - RELATING TO SCHOOL IMPACT FEES.

Dear Chair and Committee Members,

My name is Sterling Higa, and I serve as executive director of Housing Hawai'i's Future, a nonprofit creating opportunities for Hawai'i's next generation by ending the workforce housing shortage.

**On behalf of Housing Hawai'i's Future, I write in support of HB 2091, repealing school impact fees.**

It's hard to talk about school impact fees without getting histrionic, but I'll try.

I refer you to the State Auditor's Report No. 19-13, "Audit of the Department of Education's Administration of School Impact Fees."<sup>1</sup> Please read it, as the audit is justification enough.

**To be blunt, school impact fees are:**

- **a burden on homeowners and renters,**
- **probably unconstitutional, and**
- **sitting in a fund gathering dust.**

In any given year, you might give deference to the DOE when they send testimony and try to thug you into keeping this bad law on the books. Many legislators take departments at their word that they'll try harder next year.

But this is the same DOE that has \$2B in unspent CIP money. That's \$2 with *NINE ZEROS* after it.<sup>2</sup> 🤔

This is not an organization with a track record of spending money effectively.

The idea that we're adding thousands of dollars to the cost of building housing and depositing those thousands of dollars into a dust-gathering fund managed by an organization as dysfunctional as the DOE is one of those ideas that makes me think we're living in a Kafka novel. Or worse, Gogol.

Seriously, friends. Just repeal school impact fees. Housing will be less expensive, the DOE will have less money to waste, and we can turn our focus to other issues.

Thank you,



Sterling Higa  
Executive Director  
Housing Hawai'i's Future  
[sterling@hawaiisfuture.org](mailto:sterling@hawaiisfuture.org)  
+1 (808) 782-7868

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<sup>1</sup> <https://files.hawaii.gov/auditor/Reports/2019/19-13.pdf>

<sup>2</sup> <https://www.civilbeat.org/2024/01/hawaii-doe-faces-roadblocks-delays-in-spending-2-billion-for-school-facilities/>

Feb 26, 2024, 12:30 p.m.  
Hawaii State Capitol  
Conference Room 308 and Videoconference

**To: House Committee on Finance**  
**Rep. Kyle T. Yamashita, Chair**  
**Rep. Lisa Kitagawa, Vice-Chair**

**From: Grassroot Institute of Hawaii**  
**Ted Kefalas, Director of Strategic Campaigns**

RE: COMMENTS ON HB2091 HD1 — RELATING TO SCHOOL IMPACT FEES

Aloha Chair Yamashita, Vice-Chair Kitagawa and Committee Members,

The Grassroot Institute of Hawaii would like to offer its comments on [HB2091 HD1](#), which would exempt from school impact fees the construction of accessory dwelling units and certain affordable housing developments.

Though those exemptions are a step forward, they do not go far enough to help reduce the costs associated with the development of residential housing.

The cost of school impact fees are generally passed on to homebuyers or renters, thereby contributing to the high cost of housing in Hawaii. They might even discourage housing construction or make development of low-cost housing infeasible for homebuilders.

It is no coincidence that school impact fee waivers were included in Gov. Josh Green's emergency order streamlining housing construction. In fact, the first action taken by the Beyond Barriers Working Group established by the order was to approve a school impact fee waiver for a 52-unit rental project in downtown Honolulu.

The school impact fee for that area is \$3,864 per unit, which would have added \$200,928 to the project's construction costs.<sup>1</sup>

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<sup>1</sup> Andrew Gomes, "[Housing panel makes first development decision.](#)" Honolulu Star-Advertiser, Jan. 3, 2024.

Adding such fees to the cost of affordable housing simply makes such projects less attractive to homebuilders.

Meanwhile, the negative effect of school impact fees on housing growth is not offset by a commensurate benefit to local schools.

The collection and administration of the state Department of Education's impact fee program received sharp criticism from the Hawaii State Auditor, who noted that between 2007 and 2018, the DOE collected only \$5,342,886 in impact fees<sup>2</sup> — an insignificant amount compared to the \$80 million or more required to build a new school.

The auditor's report also warned that Hawaii's school impact fees may violate the constitutional requirement that there be a "nexus" between proposed new units and the need for more classroom capacity.<sup>3</sup>

We urge the committee to reinstate the original intent of HB2091 HD1 and repeal school impact fees in their entirety rather than limiting them to a few minor exemptions.

A full repeal would be far more effective in the effort to help reduce the cost of residential construction by eliminating one of the factors contributing to Hawaii's high housing prices.

Thank you for the opportunity to testify.

Ted Kefalas  
Director of Strategic Campaigns  
Grassroot Institute of Hawaii

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<sup>2</sup> ["Audit of the Department of Education's Administration of School Impact Fees: A Report to the Governor and the Legislature of the State of Hawai'i,"](#) Office of the Auditor, State of Hawaii, Sept. 2019, p. 6.

<sup>3</sup> [Ibid](#), p. 14.

**HB-2091-HD-1**

Submitted on: 2/25/2024 6:33:02 AM

Testimony for FIN on 2/26/2024 12:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Glen Kagamida	Individual	Support	Written Testimony Only

Comments:

SUPPORT