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# A BILL FOR AN ACT

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RELATING TO SCHOOL IMPACT FEES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that school impact fees  
2 add to the cost of residential housing development, potentially  
3 adding thousands of dollars to each new unit of housing  
4 constructed in affected districts. These costs are passed on to  
5 renters and buyers, leading to higher rental and for-sale  
6 prices. In some cases, high impact fees can result in a project  
7 becoming financially untenable and the units are never built.  
8 This contributes to a scarce housing market, driving up the  
9 market price of housing.

10       The legislature further finds that auditor report no. 19-13  
11 is the most comprehensive analysis of school impact fees to  
12 date. The report's summary of findings are as follows:

13       (1) The department of education's designation of school  
14 impact districts lacks well-defined policies and  
15 procedures and the districts designated to date raise  
16 concerns as to whether constitutional "nexus"  
17 requirements have been adequately addressed;



1           (2) The department of education's calculation of fees has  
2           been inconsistent and at times based on questionable  
3           assumptions, and updates to formula factors as well as  
4           other requirements of the school impact fee law have  
5           not been met;

6           (3) Gaps, that is delays, between designation of school  
7           impact districts and collection of fees have resulted  
8           in loss of fee revenue; and

9           (4) The department of education cannot adequately account  
10          for fair share and school impact fee cash and land  
11          contributions.

12          In its report, the auditor also found that in twelve years  
13          following the enactment of the school impact fee law, the  
14          department of education collected only \$5,342,886 in school  
15          impact fees. The auditor further found that this collection  
16          would not have been enough to build a single elementary school.  
17          For example, the auditor found that Hookele elementary school  
18          cost \$55,000,000 to build and further found that the department  
19          estimated it would cost approximately \$80,000,000 to build a  
20          single new elementary school. The auditor found that none of  
21          the school impact fees collected had been used for the



1 construction of new schools and \$17,600,340 of collected fees  
2 remain unused in a special fund.

3 The legislature further finds that school impact fees are a  
4 burden on aspiring homeowners and renters and the collection of  
5 these fees does not provide a clear benefit to the community.

6 The purpose of this Act is to reduce the cost of housing  
7 by:

8 (1) Eliminating school impact fees; and

9 (2) Abolishing certain fair share contribution accounts  
10 and lapsing the unencumbered balances to the school  
11 facilities special fund.

12 SECTION 2. Section 302A-1706, Hawaii Revised Statutes, is  
13 amended by amending subsections (a) and (b) to read as follows:

14 "(a) There is established within the state treasury a  
15 special fund to be known as the school facilities special fund  
16 into which shall be deposited:

17 (1) All moneys the authority receives, including funds  
18 appropriated or transferred by the legislature for  
19 deposit into the special fund;

20 ~~[-(2) Funds collected pursuant to section 302A-1608(a);~~  
21 ~~provided that these moneys shall be deposited into the~~



1           ~~appropriate subaccount established pursuant to~~  
2           ~~subsection (b);~~  
3       ~~(3)]~~ (2) Any moneys received by the department in the form  
4           of a grant, gift, endowment, or donation for the  
5           development, planning, or construction of new school  
6           facilities or major renovations of school facilities;  
7           and  
8       ~~[-(4)]~~ (3) All other moneys received by the authority and  
9           not deposited into a trust fund or trust account,  
10          including unrestricted grants, gifts, and donations;  
11          proceeds from sales of property; rents and other  
12          receipts from leases, rights of entry, and the like;  
13          and interest, refunds, and other receipts and  
14          payments.

15          (b) The authority shall establish and appropriately name  
16          subaccounts within the school facilities special fund to accept  
17          deposits of revenues ~~[from school impact fees that are required~~  
18          ~~to be expended within a specific school impact district pursuant~~  
19          ~~to section 302A-1608(a) or]~~ restricted for a specified purpose  
20          pursuant to part V, subpart B of this chapter."



1       SECTION 3. Chapter 302A, part VI, subpart B, Hawaii  
2 Revised Statutes, is repealed.

3       SECTION 4. Section 46-142.5, Hawaii Revised Statutes, is  
4 repealed.

5       ~~["§46-142.5 School impact districts; new building permit~~  
6 ~~requirements.] No new residential development in a designated~~  
7 ~~school impact district under chapter 302A shall be issued a~~  
8 ~~residential building permit or condominium property regime~~  
9 ~~building permit until the department of education provides~~  
10 ~~written confirmation that the permit applicant has fulfilled its~~  
11 ~~school impact fee requirements. This section shall only apply~~  
12 ~~to new dwelling units."]~~

13       SECTION 5. The school impact fees subaccounts within the  
14 school facilities special fund under section 302A-1706, Hawaii  
15 Revised Statutes, are abolished and any unencumbered balance  
16 remaining shall lapse to the school facilities special fund;  
17 provided that the funds shall be:

18       (1) Used within the school impact district for which it  
19       was collected; or



1           (2)   Refunded to the developer if collected as a fee in  
2                    lieu or a construction cost component impact fee after  
3                    twenty years of the date of collection.

4           SECTION 6.   The following fair share contribution accounts  
5   within the donations - facilities trust (EDN 400), are abolished  
6   and any unencumbered balance remaining shall lapse to the school  
7   facilities special fund under section 302A-1706, Hawaii Revised  
8   Statutes; provided that the lapsed contributions shall only be  
9   used within the same complex in which the contributions were  
10   originally collected:

- 11           (1)   Pearl City complex (account number: 10800);
- 12           (2)   Aiea complex (account number: 10801);
- 13           (3)   Kaimuki complex (account number: 10802);
- 14           (4)   Kaiser complex (account number: 10803);
- 15           (5)   Kapolei complex (account number: 10804);
- 16           (6)   Maili Kai - Maili elementary trust (account number:  
17                   10805);
- 18           (7)   Maili Kai - Waianae trust (account number: 10806);
- 19           (8)   Baldwin complex (account number: 10807);
- 20           (9)   Lahainaluna complex (account number: 10808);
- 21           (10)   Maui high school complex (account number: 10809); and



1 (11) Kealakehe complex (account number: 10810).

2 SECTION 7. Statutory material to be repealed is bracketed  
3 and stricken. New statutory material is underscored.

4 SECTION 8. This Act shall take effect on July 1, 3000.



**Report Title:**

DOE; School Impact Fees; Fair Share Contribution Accounts;  
School Facilities Special Fund

**Description:**

Repeals school impact fees. Abolishes and transfers  
unencumbered balances of the school impact fee subaccounts and  
certain fair share contribution accounts to School Facilities  
Special Fund. Effective 7/1/3000. (HD1)

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