
A BILL FOR AN ACT

RELATING TO SCHOOL IMPACT FEES.

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

1 SECTION 1. The legislature finds that Hawaii faces a
2 severe housing shortage and that reducing regulatory barriers
3 and development costs is essential to increasing the supply of
4 homes. Impact fees imposed on smaller residential projects can
5 add substantial costs to housing and may discourage the
6 development of infill units needed within existing communities.

7 The legislature further finds that the school impact fee
8 program was designed to ensure that new developments contribute
9 their fair share toward school facilities needed to support
10 enrollment growth. While the program may be appropriate for
11 large master-planned communities that create significant,
12 concentrated increases in enrollment, applying the same fee
13 structure to smaller projects places a disproportionate burden
14 on developments that have minimal impact on school capacity.

15 The legislature also finds that residential developments of
16 fewer than five hundred units typically generate a small number
17 of students who can be accommodated within existing school



1 facilities or through minor adjustments that do not require new
2 school construction. Applying substantial impact fees to these
3 smaller projects increases housing costs without producing a
4 corresponding benefit to public school infrastructure.

5 The purpose of this Act is to:

- 6 (1) Expand exemptions from school impact fee requirements
7 for certain housing developments;
- 8 (2) Clarify procedures and timing for land dedication or
9 fee in lieu agreements for new residential
10 developments;
- 11 (3) Repeal the sunset and reporting requirement under Act
12 268, Session Laws of Hawaii 2025, relating to school
13 impact fees;
- 14 (4) Restructure certain school impact fee accounts; and
- 15 (5) Preserve existing educational contribution agreements.

16 SECTION 2. Section 302A-1603, Hawaii Revised Statutes, is
17 amended by amending subsection (b) to read as follows:

18 "(b) The following shall be exempt from this section:

- 19 (1) Any form of housing permanently excluding school-aged
20 children, with the necessary covenants or declarations
21 of restrictions recorded on the property;



- 1 (2) Any form of housing that is or will be paying the
- 2 transient accommodations tax under chapter 237D;
- 3 (3) All nonresidential development;
- 4 (4) Any development with an executed education
- 5 contribution agreement or other like document with the
- 6 agency for the contribution of school sites or payment
- 7 of fees for school land or school construction;
- 8 (5) Any housing project developed by the government;
- 9 (6) Any dwelling units in a housing project processed
- 10 pursuant to sections 46-15.1 and 201H-38[+] that are
- 11 reserved for low- or moderate-income households;
- 12 (7) Any dwelling units in a housing project that [~~meets~~]
- 13 meet the definition of affordable housing in sections
- 14 46-15.25 or 201H-57[+] and are reserved for households
- 15 meeting the income requirements of those sections;
- 16 (8) Any housing that is a single-room dwelling;
- 17 (9) Any form of housing developed by the department of
- 18 Hawaiian home lands for use by beneficiaries of the
- 19 Hawaiian Homes Commission Act, 1920, as amended; and



- 1 (10) Any form of development by the Hawaii community
2 development authority pursuant to part XII of chapter
3 206E; [~~and~~
4 +] (11) [+] Any form of development by the Hawaii housing finance
5 and development corporation pursuant to part V of
6 chapter 201H[-];
7 (12) Any housing project consisting of fewer than five
8 hundred dwelling units; provided that subdivisions or
9 phases of a development or master plan shall be
10 considered parts of the same housing project; provided
11 further that no developer shall artificially subdivide
12 a project or phase the development of a project to
13 avoid the requirements of this subpart;
14 (13) Any dwelling unit in a housing project that is
15 reserved for residents earning at or below one hundred
16 forty per cent of the area median income as set by the
17 county where the dwelling unit is located; and
18 (14) Any studio apartment or dwelling unit that does not
19 contain a separate bedroom and has a total floor area
20 of less than four hundred square feet."



1 SECTION 3. Section 302A-1606, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) The procedure for determining whether the dedication
4 of land is required or a payment of a fee in lieu is required
5 for a new school facility or to satisfy the land component
6 impact fee shall be as follows:

7 (1) A new residential development with one hundred or more
8 units shall include a written agreement between the
9 owner or developer of the property and the authority,
10 executed [~~prior to~~] before issuance of a building
11 permit, under which the owner or developer has:

12 (A) Agreed to designate an area to be dedicated for
13 one or more schools for the development, subject
14 to approval by the authority; or

15 (B) Agreed to pay to the authority, at a time
16 specified in the agreement, a fee in lieu of land
17 dedication;

18 (2) [~~Prior to~~] Before approval of any change of zoning,
19 subdivision, or any other approval for a:

20 (A) Residential development with one hundred or more
21 units; or



1 (B) Condominium property regime development of one
2 hundred or more units,
3 the authority shall notify the approving entity of its
4 determination on whether it will require the
5 development to dedicate land, pay a fee in lieu
6 thereof, or a combination of both for the provision of
7 new school facilities;

8 (3) The authority's determination to require land
9 dedication or the payment of a fee in lieu, or a
10 combination of both, shall be guided by the following
11 criteria:

12 (A) The topography, geology, access, value, and
13 location of the land available for dedication;

14 (B) The size and shape of the land available for
15 dedication;

16 (C) The location of existing or proposed schooling
17 facilities; and

18 (D) The availability of infrastructure;

19 (4) The determination of the authority as to whether lands
20 shall be dedicated or whether a fee in lieu shall be
21 paid, or a combination of both, shall be final;



1 (5) When land dedication is required, the land shall be
2 conveyed to the State upon completion of the
3 subdivision improvements and any offsite
4 infrastructure necessary to serve the land; provided
5 that:
6 (A) Notwithstanding any law to the contrary, when a
7 developer is required to dedicate land pursuant
8 to an educational contribution agreement or this
9 subpart, the board, in coordination with the
10 authority, or the appropriate state agency
11 determined by the governor, shall formally accept
12 the transfer of the land title no later than five
13 years after the subdivision improvements and any
14 offsite infrastructure are completed. If the
15 board or the appropriate state agency fails to
16 accept the transfer within the five-year period,
17 the developer's land dedication requirement shall
18 be deemed fully satisfied by operation of law,
19 and the subject land shall permanently revert to,
20 and remain the property of, the developer without
21 further obligation; and



1 (B) If the board or the appropriate state agency
 2 formally accepts the transfer of the land title
 3 pursuant to subparagraph (A), the State shall
 4 commence construction of school facilities on the
 5 dedicated land no later than seven years after
 6 the date of acceptance. If the State fails to
 7 commence construction within the seven-year
 8 period, the subject land shall permanently revert
 9 to, and remain the property of, the developer;
 10 and

11 (6) When the payment of a fee in lieu is required, the fee
 12 in lieu shall be paid based on the terms contained in
 13 the written agreement."

14 SECTION 4. Act 268, Session Laws of Hawaii 2025, is
 15 amended as follows:

16 1. By amending section 11 to read:

17 "~~SECTION 11. [No later than December 15, 2026, the school~~
 18 ~~facilities authority shall submit a report to the legislature on~~
 19 ~~its findings, recommendations, and evaluation of the benefits~~
 20 ~~and impacts of subpart B of part VI of chapter 302A, Hawaii~~



1 ~~Revised Statutes, as amended by this Act. The report shall~~
2 ~~include:~~

3 ~~(1) The authority's efforts and progress in addressing the~~
4 ~~recommendations set forth in auditor's report no.~~
5 ~~19-13;~~

6 ~~(2) A thorough review of the currently established impact~~
7 ~~fee districts; and~~

8 ~~(3) An assessment of the need for new school construction~~
9 ~~based on demographic projections over the next~~
10 ~~twenty-five years, as provided by the state land use~~
11 ~~commission.] Repealed."~~

12 2. By amending section 14 to read:

13 "SECTION 14. This Act shall take effect upon its approval,
14 and shall apply to new residential developments permitted or
15 approved on or before June 30, 2029[; ~~provided that this Act~~
16 ~~shall be repealed on July 1, 2029, and sections 302A-1601, 302A-~~
17 ~~1602, 302A-1603, 302A-1606, 302A-1607, 302A-1608, 302A-1609,~~
18 ~~302A-1611, and 302A-1612, Hawaii Revised Statutes, shall be~~
19 ~~reenacted in the form in which they read prior to the effective~~
20 ~~date of this Act]."~~



1 SECTION 5. The following impact fee accounts within the
2 donations - facilities trust (EDN 400), are abolished and any
3 unencumbered balance remaining shall lapse to the appropriate
4 school facilities subaccounts within the school facilities
5 special fund under section 302A-1706, Hawaii Revised Statutes;
6 provided that the lapsed school impact fees shall be
7 administered in section 302A-1608:

- 8 (1) Kalihi to Ala Moana (construction) (account number:
9 10811);
- 10 (2) Kalihi to Ala Moana land (account number: 10812);
- 11 (3) Leeward construction (account number: 10813);
- 12 (4) Leeward land (account number: 10814);
- 13 (5) Central Maui construction (account number: 10815);
- 14 (6) Central Maui land (account number: 10816);
- 15 (7) West Maui construction (account number: 18817); and
- 16 (8) West Maui land (account number: 10818).

17 SECTION 6. All deeds, leases, contracts, loans,
18 agreements, permits, or other documents relating to educational
19 contribution agreements executed or entered into by or on behalf
20 of the department of education, pursuant to conditions of
21 approval or other decisions made by the land use commission



1 pursuant to section 205-4, Hawaii Revised Statutes, and
2 colloquially known as fair share contributions, shall remain in
3 full force and effect.

4 SECTION 7. Notwithstanding any provision of this Act to
5 the contrary, any existing educational contribution agreement or
6 agreement that has been executed with the department of
7 education or the school facilities authority pursuant to subpart
8 B of part VI of chapter 302A, Hawaii Revised Statutes, prior to
9 the effective date of this Act shall remain in effect unless the
10 parties to the agreement mutually agree to terminate or
11 renegotiate the agreement.

12 SECTION 8. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 9. This Act shall take effect upon its approval;
15 provided that section 3 shall apply only to any land dedication
16 obligation arising from a subdivision, development, or project
17 for which an application for approval is submitted on or after
18 the effective date of this Act.



Report Title:

School Impact Fees; Residential Development; Land Dedication Exemptions

Description:

Expands exemptions from school impact fee requirement for certain housing developments. Clarifies procedures and timing for land dedication or fee-in-lieu agreements for new residential developments. Repeals the sunset and reporting requirements under Act 268, SLH 2025. Restructures certain school impact fee accounts. Preserves existing educational contribution agreements. (CD1)

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