
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 can add substantial costs to housing and may
5 discourage the development of infill units needed within
6 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. The legislature believes that school impact
11 fees are a burden on aspiring homeowners and renters and the
12 collection of these fees does not provide a clear benefit to the
13 community.

14 The purpose of this Act is to:

15 (1) Prohibit the land use commission from imposing
16 exactions from a residential development for
17 educational purposes;



- 1 (2) Repeal school impact fees;
- 2 (3) Repeal a requirement for the school facilities
- 3 authority to report to the legislature;
- 4 (4) Abolish school impact fee subaccounts within the
- 5 school facilities special fund and transfer
- 6 unencumbered balances to the school facilities special
- 7 fund, and establish certain conditions with regard to
- 8 the transferred funds;
- 9 (5) Abolish the fair share contribution and impact fee
- 10 accounts within the department of education donations
- 11 - facilities trust and transfer unencumbered balances
- 12 to the school facilities special fund;
- 13 (6) Provide that any existing educational contribution
- 14 agreements executed with the department of education
- 15 or school facilities authority before the repeal of
- 16 school impact fees shall remain in effect unless
- 17 mutually terminated;
- 18 (7) Transfer existing educational contribution agreements
- 19 from the department of education to the school
- 20 facilities authority; and



1 (8) Appropriate funds out of the school facilities special
2 fund for priority education facilities projects,
3 including the expansion of pre-kindergarten
4 facilities.

5 SECTION 2. Section 205-4, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§205-4 Amendments to district boundaries involving land**
8 **areas greater than fifteen acres.** (a) Any department or agency
9 of the State, any department or agency of the county in which
10 the land is situated, or any person with a property interest in
11 the land sought to be reclassified, may petition the land use
12 commission for a change in the boundary of a district. This
13 section applies to all petitions for changes in district
14 boundaries of lands within conservation districts, lands
15 designated or sought to be designated as important agricultural
16 lands, and lands greater than fifteen acres in the agricultural,
17 rural, and urban districts, except as provided in section
18 201H-38. The land use commission shall adopt rules pursuant to
19 chapter 91 to implement section 201H-38.

20 (b) Upon proper filing of a petition pursuant to
21 subsection (a) the commission shall, within not less than sixty



1 and not more than one hundred and eighty days, conduct a hearing
2 on the appropriate island in accordance with the provisions of
3 sections 91-9, 91-10, 91-11, 91-12, and 91-13, as applicable.

4 (c) Any other provision of law to the contrary
5 notwithstanding, notice of the hearing together with a copy of
6 the petition shall be served on the county planning commission
7 and the county planning department of the county in which the
8 land is located and all persons with a property interest in the
9 land as recorded in the county's real property tax records. In
10 addition, notice of the hearing shall be mailed to all persons
11 who have made a timely written request for advance notice of
12 boundary amendment proceedings, and public notice shall be given
13 at least once in the county in which the land sought to be
14 redistricted is situated as well as once statewide at least
15 thirty days in advance of the hearing. The notice shall comply
16 with section 91-9, shall indicate the time and place that maps
17 showing the proposed district boundary may be inspected, and
18 further shall inform all interested persons of their rights
19 under subsection (e).

20 (d) Any other provisions of law to the contrary
21 notwithstanding, [~~prior to~~] before hearing [~~of~~] a petition, the



1 commission and its staff may view and inspect any land [~~which~~
2 that is the subject of the petition.

3 (e) Any other provisions of law to the contrary
4 notwithstanding, agencies and persons may intervene in the
5 proceedings in accordance with this subsection.

6 (1) The petitioner, the office of planning and sustainable
7 development, and the county planning department shall
8 in every case appear as parties and make
9 recommendations relative to the proposed boundary
10 change;

11 (2) All departments and agencies of the State and of the
12 county in which the land is situated shall be admitted
13 as parties upon timely application for intervention;

14 (3) All persons who have some property interest in the
15 land, who lawfully reside on the land, or who
16 otherwise can demonstrate that they will be so
17 directly and immediately affected by the proposed
18 change that their interest in the proceeding is
19 clearly distinguishable from that of the general
20 public shall be admitted as parties upon timely
21 application for intervention;



1 (4) All other persons may apply to the commission for
2 leave to intervene as parties. Leave to intervene
3 shall be freely granted; provided that the commission
4 or its hearing officer, if one is appointed, may deny
5 an application to intervene when in the commission's
6 or hearing officer's sound discretion it appears that:
7 (A) The position of the applicant for intervention
8 concerning the proposed change is substantially
9 the same as the position of a party already
10 admitted to the proceeding; and
11 (B) The admission of additional parties will render
12 the proceedings inefficient and unmanageable.
13 A person whose application to intervene is denied may
14 appeal the denial to the circuit court pursuant to
15 section 91-14; and
16 (5) The commission, pursuant to chapter 91, shall adopt
17 rules governing the intervention of agencies and
18 persons under this subsection. The rules shall
19 without limitation establish:
20 (A) The information to be set forth in any
21 application for intervention;



1 (B) The limits within which applications shall be
2 filed; and

3 (C) Reasonable filing fees to accompany applications.

4 (f) Together with other witnesses that the commission may
5 desire to hear at the hearing, it shall allow a representative
6 of a citizen or a community group to testify who indicates a
7 desire to express the view of [~~such~~] the citizen or community
8 group concerning the proposed boundary change.

9 (g) Within a period of not more than three hundred sixty-
10 five days after the proper filing of a petition, unless
11 otherwise ordered by a court, or unless a time extension, which
12 shall not exceed ninety days, is established by a two-thirds
13 vote of the members of the commission, the commission, by filing
14 findings of fact and conclusions of law, shall act to approve
15 the petition, deny the petition, or to modify the petition by
16 imposing conditions necessary to uphold the intent and spirit of
17 this chapter or the policies and criteria established pursuant
18 to section 205-17 or to assure substantial compliance with
19 representations made by the petitioner in seeking a boundary
20 change. The commission may provide by condition that absent
21 substantial commencement of use of the land in accordance with



1 such representations, the commission shall issue and serve upon
2 the party bound by the condition an order to show cause why the
3 property should not revert to its former land use classification
4 or be changed to a more appropriate classification. Such
5 conditions, if any, shall run with the land and be recorded in
6 the bureau of conveyances.

7 (h) No amendment of a land use district boundary shall be
8 approved unless the commission finds upon the clear
9 preponderance of the evidence that the proposed boundary is
10 reasonable, not violative of section 205-2 and part III of this
11 chapter, and consistent with the policies and criteria
12 established pursuant to sections 205-16 and 205-17. Six
13 affirmative votes of the commission shall be necessary for any
14 boundary amendment under this section.

15 (i) Parties to proceedings to amend land use district
16 boundaries may obtain judicial review thereof in the manner set
17 forth in section 91-14, provided that the court may also reverse
18 or modify a finding of the commission if such finding appears to
19 be contrary to the clear preponderance of the evidence.

20 (j) At the hearing, all parties may enter into appropriate
21 stipulations as to findings of fact, conclusions of law, and



1 conditions of reclassification concerning the proposed boundary
2 change. The commission may but shall not be required to approve
3 such stipulations based on the evidence adduced.

4 (k) Notwithstanding any law to the contrary, no petition
5 or condition imposed by the commission pursuant to this chapter
6 shall require exactions from a residential development for
7 educational purposes."

8 SECTION 3. Section 302A-1706, Hawaii Revised Statutes, is
9 amended by amending subsections (a) and (b) to read as follows:

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

13 (1) All moneys the authority receives, including funds
14 appropriated or transferred by the legislature for
15 deposit into the special fund;

16 ~~[(2) Funds collected pursuant to section 302A-1608(a);~~
17 ~~provided that these moneys shall be deposited into the~~
18 ~~appropriate subaccount established pursuant to~~
19 ~~subsection (b);~~

20 ~~+(3)]~~ (2) Any moneys received by the department in the form
21 of a grant, gift, endowment, or donation for the



1 development, planning, or construction of new school
2 facilities or major renovations of school facilities;
3 and

4 ~~[(4)]~~ (3) All other moneys received by the authority and
5 not deposited into a trust fund or trust account,
6 including unrestricted grants, gifts, and donations;
7 proceeds from sales of property; rents and other
8 receipts from leases, rights of entry, and the like;
9 and interest, refunds, and other receipts and
10 payments.

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

17 SECTION 4. Chapter 302A, part VI, subpart B, Hawaii
18 Revised Statutes, is repealed.

19 SECTION 5. Section 46-142.5, Hawaii Revised Statutes, is
20 repealed.



1 ~~["§46-142.5 School impact districts; new building permit~~
2 ~~requirements.] No new residential development in a designated~~
3 ~~school impact district under chapter 302A shall be issued a~~
4 ~~residential building permit or condominium property regime~~
5 ~~building permit until the department of education provides~~
6 ~~written confirmation that the permit applicant has fulfilled its~~
7 ~~school impact fee requirements. This section shall only apply~~
8 ~~to new dwelling units."]~~

9 SECTION 6. Act 268, Session Laws of Hawaii 2025, is
10 amended as follows:

11 1. By amending section 11 to read:

12 ~~"SECTION 11. [No later than December 15, 2026, the school~~
13 ~~facilities authority shall submit a report to the legislature on~~
14 ~~its findings, recommendations, and evaluation of the benefits~~
15 ~~and impacts of subpart B of part VI of chapter 302A, Hawaii~~
16 ~~Revised Statutes, as amended by this Act. The report shall~~
17 ~~include: (1) The authority's efforts and progress in addressing~~
18 ~~the recommendations set forth in auditor's report no. 19-13; (2)~~
19 ~~A thorough review of the currently established impact fee~~
20 ~~districts; and (3) An assessment of the need for new school~~
21 ~~construction based on demographic projections over the next~~



1 ~~twenty-five years, as provided by the state land use~~
2 ~~commission.] Repealed."~~

3 2. By amending section 14 to read:

4 "SECTION 14. This Act shall take effect upon its approval,
5 and shall apply to new residential developments permitted or
6 approved on or before June 30, 2029[~~; provided that this Act~~
7 ~~shall be repealed on July 1, 2029, and sections 302A-1601, 302A-~~
8 ~~1602, 302A-1603, 302A-1606, 302A-1607, 302A-1608, 302A-1609,~~
9 ~~302A-1611, and 302A-1612, Hawaii Revised Statutes, shall be~~
10 ~~reenacted in the form in which they read prior to the effective~~
11 ~~date of this Act]."~~

12 SECTION 7. The school impact fees subaccounts within the
13 school facilities special fund under section 302A-1706, Hawaii
14 Revised Statutes, are abolished, and any unencumbered balance
15 remaining shall lapse to the school facilities special fund;
16 provided that the funds shall be:

- 17 (1) Used within the school impact district for which the
- 18 funds were collected to provide new or expanded school
- 19 facilities serving students residing within that
- 20 school impact district; or



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

5 The school facilities authority shall administer these funds in
6 accordance with applicable law and ensure that expenditures
7 remain reasonably proportionate to the impacts generated within
8 the district.

9 SECTION 8. The following fair share contribution and
10 impact fee accounts within the donations - facilities trust (EDN
11 400), are abolished and any unencumbered balance remaining shall
12 lapse to the school facilities special fund under section 302A-
13 1706, Hawaii Revised Statutes; provided that the lapsed
14 contributions shall only be used within the same complex in
15 which the contributions were originally collected:

- 16 (1) Pearl City complex (account number: 10800);
- 17 (2) Aiea complex (account number: 10801);
- 18 (3) Kaimuki complex (account number: 10802);
- 19 (4) Kaiser complex (account number: 10803);
- 20 (5) Kapolei complex (account number: 10804);



- 1 (6) Maili Kai - Maili elementary trust (account number:
2 10805);
- 3 (7) Maili Kai - Waianae trust (account number: 10806);
- 4 (8) Baldwin complex (account number: 10807);
- 5 (9) Lahainaluna complex (account number: 10808);
- 6 (10) Maui high school complex (account number: 10809);
- 7 (11) Kealakehe complex (account number: 10810);
- 8 (12) Kalihi to Ala Moana construction (account number:
9 10811);
- 10 (13) Kalihi to Ala Moana land (account number: 10812);
- 11 (14) Leeward construction (account number: 10813);
- 12 (15) Leeward land (account number: 10814);
- 13 (16) Central Maui construction (account number: 10815);
- 14 (17) Central Maui land (account number: 10816);
- 15 (18) West Maui construction (account number: 18817); and
- 16 (19) West Maui land (account number: 10818).

17 SECTION 9. There is appropriated out of the school
18 facilities special fund the sum of \$ or so much
19 thereof as may be necessary for fiscal year 2026-2027 for
20 priority education facilities projects, including the expansion
21 of pre-kindergarten facilities.



1 The sum appropriated shall be expended by the school
2 facilities authority for the purposes of this Act.

3 SECTION 10. Notwithstanding any law to the contrary, any
4 existing educational contribution agreements or written
5 agreements executed with the department of education or the
6 school facilities authority pursuant to chapter 302A, part VI,
7 subpart B, Hawaii Revised Statutes, before its repeal by this
8 Act shall remain in effect unless the parties to such an
9 agreement mutually agree to terminate the agreement.

10 SECTION 11. All deeds, leases, contracts, loans,
11 agreements, permits, or other documents relating to educational
12 contribution agreements executed or entered into by or on behalf
13 of the department of education, pursuant to conditions of
14 approval or other decisions made by the land use commission
15 pursuant to section 205-4, Hawaii Revised Statutes, and
16 colloquially known as fair share contributions, shall remain in
17 full force and effect. Effective July 1, 2026, every reference
18 to the department of education, board of education, chairperson
19 of the board of education, or superintendent of education
20 relating to the fair share contributions in those deeds, leases,
21 contracts, loans, agreements, permits, or other documents shall



1 be construed as a reference to the school facilities authority,
2 executive director of the school facilities authority, school
3 facilities board, or chairperson of the school facilities board,
4 as appropriate; provided that any land dedication part of the
5 fair share contributions that has not yet been conveyed to the
6 department of education shall be conveyed to the school
7 facilities authority; provided further that any parcels of land
8 already conveyed to the department of education as part of the
9 fair share contributions shall be transferred to the school
10 facilities authority by operation of law.

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

13 SECTION 13. This Act shall take effect on July 1, 3000.



Report Title:

DOE; LUC; School Facilities Authority; School Impact Fees; Repeal; Fair Share Contribution Accounts; Impact Fee Accounts; Educational Contribution Agreements; Transfer; School Facilities Special Fund; Appropriation

Description:

Prohibits the Land Use Commission from imposing exactions from a residential development for educational purposes. Repeals school impact fees. Abolishes school impact fee subaccounts within the School Facilities Special Fund and transfers unencumbered balances to the School Facilities Special Fund. Abolishes fair share contribution and impact fee accounts within the DOE Donations - Facilities Trust and transfers unencumbered balances to the School Facilities Special Fund. Provides that any existing educational contribution agreements executed with the Department of Education or School Facilities Authority before the repeal of school impact fees shall remain in effect. Transfers existing educational contribution agreements from the Department of Education to the School Facilities Authority. Repeals a requirement for the School Facilities Authority to report to the Legislature. Appropriates funds from the School Facilities Special Fund. Effective 7/1/3000. (SD1)

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