

ACT 237

S.B. NO. 2731

A Bill for an Act Relating to Schools.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. The legislature finds that new affordable housing generates additional students within a school district in the same way that all other new housing development increases school enrollment. School impact fees are a direct link between new housing units and the new or expanded school facilities required to address the enrollment growth caused by the new units.

The purpose of this part is to clarify that if a new residential development within a designated school impact district requires a county subdivision approval, a county building permit, or a condominium property regime approval, then the developer is also required to fulfill certain impact fee requirements of the department of education, even if the projects are processed pursuant to section 201H-38, Hawaii Revised Statutes, or section 46-15.1, Hawaii Revised Statutes, with the involvement of the Hawaii housing finance and development corporation or a corresponding county agency.

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

“(a) Except as provided in subsection (b), any person who seeks to develop a new residential development within a designated school impact district requiring:

- (1) A county subdivision approval;
- (2) A county building permit; or
- (3) A condominium property regime approval for the project,

shall be required to fulfill the land component impact fee or fee in lieu requirement and construction cost component impact fee requirement of the department, including all government housing projects[-] and projects processed pursuant to sections 46-15.1 and 201H-38.”

PART II

SECTION 3. Section 302A-1608, Hawaii Revised Statutes, is amended to read as follows:

“**§302A-1608 Accounting and expenditure requirements.** (a) Each designated school impact district shall be a separate benefit district. Fees collected within each school impact district shall be spent only within the same school impact district for the purposes collected.

(b) Land dedicated by the developer shall be used only as a site for the construction of one or more new schools or for the expansion of existing school facilities. If the land is never used for the school facility, it shall be returned to the developer, or the developer’s successor in interest. Once used, the land may

be sold, with the proceeds used to acquire land for school facilities in the same school impact district.

(c) If the land is not used for a school facility within twenty years of its dedication, it shall be returned to the developer, or the developer's successor in interest.

(d) Once used for school facilities, all or part of the land may be later sold. Proceeds from the sale shall be used to acquire land for school facilities in the same school impact district.

(e) Fee in lieu funds may be used for school site land acquisition and related expenses, including surveying, appraisals, and legal fees. ~~[Fee]~~ With the exception of urban Honolulu, fee in lieu funds shall not be used for the maintenance or operation of existing schools in the district~~;~~; construction costs, including architectural, permitting, or financing costs~~;~~; or for administrative expenses.

(f) Notwithstanding subsection (e), in urban Honolulu, fee in lieu funds may be used to purchase completed construction, construct new school facilities, improve or renovate existing structures for school use, or lease land or facilities for school use.

~~[(f)]~~ (g) Construction cost component impact fees shall be used only for the costs of new school facilities that ~~[expands]~~ expand the student capacity of existing schools or adds student capacity in new schools. Construction cost component impact fees may not be used to replace an existing school located within the same school impact district, either on the same site or on a different site.

~~[(g)]~~ (h) Eligible construction costs include planning, engineering, architectural, permitting, financing, and administrative expenses, and any other capital equipment expenses pertaining to educational facilities.

~~[(h)]~~ (i) Construction cost component impact fees shall not be expended for:

- (1) The maintenance or operation of existing schools in the district; or
- (2) Portable or temporary facilities.

~~[(i)]~~ (j) If a closure, demolition, or conversion of an existing permanent department facility within a school impact district that has the effect of reducing student capacity occurs, an amount of new student capacity in permanent buildings equivalent to the lost capacity shall not be funded with school impact fees.

~~[(j)]~~ (k) Fees in lieu, proceeds from the sale of all or part of an existing school site that has been dedicated by a developer pursuant to the requirements of this subpart, and construction cost component impact fees shall be expended or encumbered within twenty years of the date of collection. Fees shall be considered spent or encumbered on a first-in, first-out basis. An expenditure plan for all collected impact fees shall be incorporated into the annual budget process of the department and subject to legislative approval of the budget.

(l) As used in this section, "urban Honolulu" means the Kalihi to Ala Moana school impact district."

PART III

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on July 1, 2016.

(Approved July 12, 2016.)