

West Hawaii School Impact District

Board of Education
Committee on Finance and
Infrastructure
August 2, 2011

School impact fees

- Established by Act 245 (2007), now Sections 302A-1601 through 1610, HRS.
- Act 245 was based on a study commissioned by the Legislature and recommendations from a work group of developers, legislators, county officials, DOE officials.
- Act 245 was amended by Act 188 in 2010.

School impact fees

- Apply in “school impact districts” to residential development requiring:
 - Subdivision approval, or
 - CPR (condominium) approval, or
 - Building permit.
- Are mandated by state statute.
- Are determined by statutory formulas.
- Are based on public school facility needs generated by the development (“nexus”).
- Impact fees can be spent only in the impact district for which they are collected.

Developments exempt from impact fees

- Residential development restricted by covenant or deed restriction to adults.
- Residential development subject to the transient accommodation tax.
- Nonresidential development.
- Residential development already subject to an executed DOE “fair share” agreement.

School impact districts

- Are established by BOE where anticipated growth is expected to create the need for:
 - one or more new schools, or
 - the expansion of one or more existing schools.

Areas to be considered for school impact districts

- Oahu
 - Waipahu/Pearl City [in process]
 - Waianae
 - Kahuku
 - Kaahumanu Elementary
 - Campbell/Kapolei
 - Koa Ridge/Waiawa Ridge
- Maui
 - Central Maui (Wailuku, Kahului, Kihei) [designated 11/18/10]
 - West Maui [designated 11/18/10]
 - Lanai
- Hawaii
 - West Hawaii (Konawaena Elem + Kealakehe complex + Waimea) [designated 4/15/10]
 - Puna
 - Ka`u
- Kauai
 - Kauai H.S.

Impact fees components

- Land component = acreage needed for new or expanded schools.
 - Payable in land, or (at DOE's determination)
 - Payable in cash ("cash in lieu").
 - Land value is determined by appraisal.
- Construction component = formula developed to produce approx. 10% of the construction cost of new or expanded schools.

Designation of school impact districts

- BOE must hold a public hearing in the area proposed for designation. Two public hearings were held in W. Hawaii, on Nov 18, 2008 and April 13, 2009. As required, DOE provided prior to the hearings:
 - A map of the proposed school impact district.
 - An analysis showing the need for more school facilities within the next 25 years based on State and County land use plans, demographics, density, and any other applicable plans.

Impact fee analysis

- Peak and “steady-state” student generation rates by housing type (single family, multi-family).
- Percentages of existing elementary, middle, and high school enrollment in permanent and temporary school facilities.
- Possible redistricting that would reduce the need for new facilities.
- New facility enrollment capacity and land area needed.

Implementation schedule set forth in Act 245 (not in statute)

- By July 2, 2008 DOE must:
 - Identify school impact districts.
 - Assess high growth areas.
 - Assess school utilization rates.
 - Develop a methodology to determine future school facility needs in:
 - New developments,
 - Build-out of existing developments, and
 - In-fill developments.

West Hawaii school impact district

School attendance areas impacted

- Waimea Elementary – new elementary
- Waikoloa Elementary – new elementary, middle, high
- Kealahou High – new elementary, middle, high
- Konawaena Elementary – enlarge an existing school

Reaction to W. Hawaii school impact district

- No disagreement that if development proposed materializes, new and expanded schools will be needed in the W. Hawaii school impact district.
- But some said:
 - It is probable that not all development proposed will materialize.
 - DOE should use state land for new schools where available.
 - DOE should consider busing students from new developments to underutilized schools in S. Kona and Honokaa.
 - DOE should not implement impact fees until “bugs” in Act 245 are worked out with the Legislature.
 - It is not fair to W. Hawaii to begin paying impact fees before other areas in the state.
 - Implementation should be deferred until the W. Hawaii economy recovers.
 - Impact fees should not be imposed on individual residential lot owners.
 - DOE has not complied with the Act 245 requirement that it “assess other funding sources” for the funding of new schools.

DOE's response

- It is probable that not all development proposed for W. Hawaii will materialize.
 - DOE agrees, but if all projects are not developed, then not all projected impact fees will be collected and not all projected schools will be built. No developer who proceeds will pay more in impact fees to offset fees not collected from developments that do not materialize.

DOE's response (continued)

- DOE should use state land for new schools where available.
 - DOE agrees. However, the value of the land is not in the dirt, but in the improvements needed to use it for a school: zoning, grading, road access, water, sewer, electricity, drainage. Impact fees for land are needed to provide these improvements to “raw” state land. Further, some of the proposed developments will be on state land, and the developers of state land will receive the credit for the provision of state land for schools.

DOE's response (continued)

- DOE should consider busing students from new developments to underutilized schools in S. Kona and Honokaa.
 - DOE does not believe this is realistic.

DOE's response (continued)

- DOE should not implement impact fees until “bugs” in Act 245 are worked out with the Legislature.
 - There is no provision in Act 245 to defer implementation until “bugs” are worked out via amendments to Act 245.
 - Act 188 (2010) addressed “bugs” identified to date.

DOE's response (continued)

- It is not fair to W. Hawaii to begin paying impact fees before other areas in the state.
 - There is no requirement in the statute to begin imposing impact fees for all impact areas on the same date.
 - Subsequently, BOE designated the W. and Central Maui school impact districts, and those who should be paying impact fees there are paying them.

DOE's response (continued)

- Implementation should be deferred until the W. Hawaii economy recovers.
 - This concern should be addressed to the Legislature. The statute does not give the BOE the authority to defer implementation based on the state of the economy.

DOE's response (continued)

- Impact fees should not be imposed on individual residential lot owners.
 - This concern should be addressed to the Legislature. The statute does not give the BOE the authority to exempt individual residential lot owners
 - The Legislature intentionally included individual lot owners; a new dwelling unit on a vacant lot has the same impact as a new dwelling unit in a new subdivision.

DOE's response (continued)

- DOE has not complied with the Act 245 requirement that it “assess other funding sources” for the funding of new schools.
 - This provision in Act 245 is not incorporated in statute.
 - Nothing in the statute conditions the designation of a school impact district on an assessment of “other funding sources.”
 - DOE's assessment is that the “other funding source” cited in Act 245 requires legislative action:
 - Dedicated percentage of conveyance tax.

DOE's conclusion

- There is no new information that would cause W. Hawaii not to be a school impact district.
- Neither DOE nor BOE have the authority to exempt individual residential lots from impact fees.