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## Hawaii Ed Board Rethinks School Impact Fees

By [Katherine Poythress](#) | 08/02/2011

A series of legal stumbling blocks have [Hawaii State Board of Education](#) members rethinking a tax designed to help construct new schools.

The tax, known as a [school impact fee](#), was established in 2007 by the [Legislature](#). Landowners who build new homes in designated "high-growth" areas must pay the fee to help build school public schools in those districts. It is based on a formula accounting for projected public school enrollment and can range from about \$1,500 to \$5,800 per home, depending on construction costs in each area.

But four years later, understanding of the law is unclear and implementation is inconsistent.

The fee is currently applied in two districts on Maui, and has yielded about \$20,000 in impact fees. West Hawaii was scheduled to begin collecting the fee last July, but has yet to do so. Meanwhile, 10 other areas are being considered for the fee — six of them on Oahu.

"What's going on with West Hawaii?" asked Wesley Lo, chairman of the Finance and Infrastructure Committee. "I'm a little nervous about the fact that we're not collecting when we've already implemented something. Are we not collecting because homes haven't been built, or do we just not have a mechanism to collect yet?"

The answer is the latter, said Randy Moore, superintendent of the Department of Education Office of School Facilities and Support Services. A lengthy discussion ensued about who is responsible for collecting the fee, how and whether it can be applied retroactively to homes built in the last 12 months.

### Questioning Impact Fee's Fairness and Effectiveness

While Board of Education members wrestled with how to enforce it, they also questioned its premise.

Some worry it will yield insignificant revenue while discouraging new land development and discriminating against residents in certain areas. Instead of taxing residents, the department should make use of its existing assets to generate revenue for new schools, suggested the board chairman.

Having the fee at all is unfair, testified Bobby Command on behalf of Hawaii Mayor Billy Kenoi.

"We are strongly against the imposition of any fees by a statewide system that only targets a small portion of the state," wrote the mayor in a letter Command presented to the board.

Command requested that board members postpone implementation "until we can design a fair proposal for the whole state."

Committee member [Brian DeLima](#) echoed the sentiment, saying that it seems unfair that only a few geographic areas have been singled out for the fee. Committee member [Don Horner](#) agreed, and also predicted that the amount collected will be insufficient.

"The amount of housing that's being built and the money being generated isn't significant in the context of our overall financial needs for new school facilities," Horner said.

He pointed out that, based on Census data, the need for new schools is not because the student population is growing, but because it is shifting from the urban areas out into the suburbs.

"In reality, we have enough classrooms, we just don't have them in the right places," he said. "The challenge is to figure out a way to use our existing assets in the urban core to provide capital to build our assets in the suburbs. would challenge the Department of Education to look more globally at the problem instead of just taxing, which is easy to do."

(Incidentally, legislators entertained [a proposal](#) this year to do just what Horner suggested. The bill died before session ended.)

Lo said he empathizes with the mayor's and board members' concerns and suggested that the board work with legislators to revisit the impact fee law.

Meanwhile, he said, the existing law must be enforced.

"It sounds like we've got a little bit of a legal morass here, with collection issues and implementation of statute," h said. "Our concern is that there is a law that we need to follow somehow. If there was a line drawn in the sand, w have to live with that until such time as the law is changed."

The committee voted to confer with the Attorney General at its Sept. 6 meeting on how best to implement the law and collect the fee.

**DISCUSSION:** *Should Hawaii keep the school impact fee as-is, make some changes, or get rid of it entirely? [Share your thoughts.](#)*

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