

House Bill 894

By: Representatives Dudgeon of the 25<sup>th</sup>, Gilligan of the 24<sup>th</sup>, and Duncan of the 26<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 71 of Title 36 of the Official Code of Georgia Annotated, relating to  
2 development impact fees, so as to provide for development impact fees for education; to  
3 provide definitions; to provide for the manner of calculation, imposition, and collection of  
4 such fees; to provide for related matters; to provide for a contingent effective date; to repeal  
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 71 of Title 36 of the Official Code of Georgia Annotated, relating to development  
9 impact fees, is amended by revising Code Section 36-71-1, relating to short title and  
10 legislative findings and intent, as follows:

11 "36-71-1.

12 (a) This chapter shall be known and may be cited as the 'Georgia Development Impact Fee  
13 Act.'

14 (b) The General Assembly finds that an equitable program for planning and financing  
15 public facilities needed to serve new growth and development is necessary in order to  
16 promote and accommodate orderly growth and development and to protect the public  
17 health, safety, and general welfare of the citizens of the State of Georgia. It is the intent of  
18 this chapter to:

19 (1) Ensure that adequate public facilities are available to serve new growth and  
20 development;

21 (2) Promote orderly growth and development by establishing uniform standards by  
22 which municipalities and counties and school systems may require that new growth and  
23 development pay a proportionate share of the cost of new public facilities needed to serve  
24 new growth and development;

25 (3) Establish minimum standards for the adoption of development impact fee ordinances  
26 by municipalities and counties and school systems; and

27 (4) Ensure that new growth and development is required to pay no more than its  
 28 proportionate share of the cost of public facilities needed to serve new growth and  
 29 development and to prevent duplicate and ad hoc development exactions."

30 **SECTION 2.**

31 Said chapter is further amended by designating Code Section 36-71-1 as Article 1, Code  
 32 Sections 36-71-2 through 36-71-13 as Article 2, and adding a new article to read as follows:

33 "ARTICLE 3

34 36-71-20.

35 As used in this article, the term:

36 (1) 'Educational development impact fees' means development impact fees that are  
 37 imposed to pay for a share of the cost of additional educational facilities to serve new  
 38 growth and development in the same area in which such fees are imposed.

39 (2) 'High growth school system' is a school system in this state which has either:

40 (A) Experienced an increase in the number of students enrolled in such school system  
 41 of 15 percent or more over the immediately preceding five-year period; or

42 (B) Experienced an increase in the number of students enrolled in such school system  
 43 of at least 10 percent over the immediately preceding four-year period and is projected  
 44 over the next year to experience an increase in the number of enrolled students such  
 45 that, at the end of the following year, the school system will be projected to have  
 46 experienced an increase of 15 percent in the number of students enrolled over the  
 47 immediately preceding five-year period.

48 36-71-21.

49 Each local board of education in this state which is a high growth school system may by  
 50 resolution impose, levy, and collect development impact fees within any area of its school  
 51 system which has had enrollment growth of at least 15 percent over the preceding five-year  
 52 period.

53 36-71-22.

54 (a) Before imposing development impact fees under this article, the local board of  
 55 education of a high growth school system shall adopt a public resolution finding that the  
 56 school system is a high growth school system and shall create an educational development  
 57 impact fee advisory committee.

58 (b) The educational development impact fee advisory committee shall be composed of one  
59 appointee by each member of the local board of education and two members appointed by  
60 the board of commissioners of the county in which the school system is located if a county  
61 school system or two members appointed by the governing authority of the municipality  
62 in which the school system is located if an independent school system. The local board of  
63 education shall designate one of the appointees of the board of education as the chairperson  
64 of the committee.

65 (c) It shall be the function of the committee to determine the average amount of the total  
66 capital cost for the school system to provide new classrooms or school space for each new  
67 student enrolling in the school system. This determination shall be based upon the costs  
68 of new construction or expansion of existing facilities but shall not include present or  
69 future maintenance expenses. The costs of technology, furnishings, and other items needed  
70 to equip the new construction or expansion may be included in such determination.

71 (d) Once the average amount of the total capital cost to provide new classrooms or school  
72 space is determined as provided in subsection (c) of this Code section, the committee shall  
73 determine the percentage of funding for such new construction or expansion that is  
74 projected to come from state educational capital outlay funds. The committee shall  
75 subtract the projected state contribution from the total capital cost determination to obtain  
76 the projected amount per student that is needed as local funding.

77 (e) The educational development impact fee shall be determined based upon a figure that  
78 is one-third or less of the local funding figure derived as provided in subsection (d) of this  
79 Code section. In determining the educational development impact fee, the committee shall  
80 consider the projected number of students that will come from different types of  
81 development, such as single-family houses, apartments, condominiums, multifamily  
82 housing, and other residential rental property.

83 (f) The committee shall also recommend to the local board of education how the  
84 educational development impact fees shall be used to offset bonded indebtedness,  
85 educational special purpose local option sales taxes, millage rates, and other tax burdens  
86 on citizens residing in the area served by the school system.

87 (g) The committee shall provide its calculations, recommendations, and explanations in  
88 a report to the local board of education.

89 (h) Upon receiving the report of the committee, the local board of education shall review  
90 the report. If the board of education does not find the report acceptable, it shall return the  
91 report to the committee with directions for further action by the committee. The committee  
92 shall then review and revise the report in light of the directions of the board of education  
93 and resubmit the report to the board of education. If the board of education finds the report  
94 acceptable, the board of education shall send the report and the proposed educational

95 development impact fee schedule to each local government in the area served by the school  
96 system for comment. Such local governments shall have 60 days from the date the report  
97 is sent by the board of education to provide comments in writing regarding such report and  
98 proposed fee schedule to the board of education.

99 (i) At any time following the 60 day comment period provided for in subsection (h) of this  
100 Code section, the local board of education may adopt a resolution adopting the educational  
101 development impact fee schedule and outlining a plan for tax reduction or prevention for  
102 the citizens of the area served by the school system. Such fee schedule shall be sent to each  
103 local government in the area served by the school system.

104 (j) Educational development impact fees shall be valid for a period of three years  
105 following their adoption by the local board of education. The fees may be extended for  
106 additional three-year periods in the same manner as provided in this Code section for the  
107 initial adoption. The board of education may at any time by resolution of the board lower  
108 or remove such impact fees if the growth assumptions change.

109 (k) Each local government in the area served by the school system shall collect the  
110 educational development impact fee at the same time and in the same manner as other  
111 development impact fees under Article 2 of this chapter. Such local governments are  
112 authorized to retain 3 percent of the educational development impact fees collected to  
113 reimburse such local governments for their administrative costs and shall forward the  
114 remaining amount to the local board of education."

115 **SECTION 3.**

116 This Act shall become effective on January 1, 2017, if an amendment to the state  
117 Constitution authorizing educational development impact fees is adopted by the General  
118 Assembly during its 2016 regular session and is ratified by the voters at the 2016 general  
119 election. Otherwise, this Act shall be repealed on January 1, 2017, and shall not become  
120 effective.

121 **SECTION 4.**

122 All laws and parts of laws in conflict with this Act are repealed.