

Senate Bill 404

By: Senators Dolezal of the 27th and Unterman of the 45th

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 for definitions; to provide for the manner of calculation, imposition, and collection
4 of such fees; to provide for related matters; to provide for a contingent effective date; to
5 repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 style="text-align:center">**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 or resolutions 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, by
 32 designating Code Sections 36-71-2 through 36-71-13 as Article 2, and by adding a new
 33 article to read as follows:

34

"ARTICLE 3

35 36-71-20.

36 As used in this article, the term:

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

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

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

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

49 36-71-21.

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

54 36-71-22.

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

59 (b) Each member of the local board of education shall appoint one member to the
60 educational development impact fee advisory committee. The governing authority of the
61 county in which the school system is located for a county school system, or the governing
62 authority of the municipality in which the school system is located for an independent
63 school system, shall appoint two members to the educational development impact fee
64 advisory committee. The local board of education shall designate one of the appointees of
65 the board of education as the chairperson of the committee.

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

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

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

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

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

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

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

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

105 (j) Each local government in the area served by the school system shall collect educational
 106 development impact fees at the same time and in the same manner as other development
 107 impact fees under Article 2 of this chapter. Such local governments are authorized to
 108 retain 3 percent of the educational development impact fees collected as reimbursement for
 109 their administrative costs and shall forward the remaining amount to the local board of
 110 education.

111 36-71-23.

112 Educational development impact fees shall be valid for a period of five years following
 113 their adoption by the local board of education. Notwithstanding any other Code section of
 114 this article to the contrary, the fees may be extended for additional five-year periods in the
 115 manner provided for in Code Section 36-71-22 for the initial adoption, provided that the
 116 school system has experienced an increase of 3 percent in the number of students enrolled
 117 in at least one of the proceeding five years. The local board of education may at any time
 118 by resolution of such local board of education lower or remove such fees if the growth
 119 assumptions change."

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SECTION 3.

121 This Act shall become effective on January 1, 2021, only if an amendment to the state
 122 Constitution authorizing educational development impact fees is adopted by the General
 123 Assembly during its 2020 regular session and is ratified by the voters at the 2020 general
 124 election. Otherwise, this Act shall not become effective and shall stand repealed by
 125 operation of law on January 1, 2021.

126

SECTION 4.

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