

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."

120

### **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.