

The Senate Committee on Education and Youth offered the following substitute to SB 404:

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 and for  
5 automatic repeal; to repeal 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 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) The educational development impact fee advisory committee shall be composed in the  
60 same manner as provided for development impact fee advisory committees in  
61 subsection (b) of Code Section 36-71-5.

62 (c) The educational development impact fee advisory committee shall serve in an advisory  
63 capacity to assist and advise the local board of education with regard to the adoption of an  
64 educational development impact fee resolution. In that the committee is advisory, no  
65 action of the committee shall be considered a necessary prerequisite for action of a local  
66 board of education in regard to adoption of a resolution.

67 (d) In determining the educational development impact fees, the local board of education  
68 and the educational development impact fee advisory committee shall consider the  
69 projected number of students that will come from different types of developments, such as  
70 single-family houses, apartments, condominiums, multifamily housing, age restricted  
71 communities, assisted or senior living facilities, and other residential rental properties;  
72 provided, however, that in all other matters educational development impact fees shall be  
73 calculated as provided by and conform to the requirements of Code Section 36-71-4.

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

78 (f) The committee shall provide its calculations, recommendations, and explanations in a  
79 report to the local board of education.

80 (g) The local board of education shall adopt a resolution adopting the educational  
81 development impact fee schedule. Such fee schedule shall be sent to each local  
82 government in the area served by the school system.

83 (h) Each local government in the area served by the school system shall collect  
84 educational development impact fees at the same time and in the same manner as other  
85 development impact fees under Article 2 of this chapter. Such local governments are  
86 authorized to retain 3 percent of the educational development impact fees collected as  
87 reimbursement for their administrative costs and shall forward the remaining amount to the  
88 local board of education.

89 36-71-23.

90 Educational development impact fees shall be valid for a period of five years following  
91 their adoption by the local board of education. Notwithstanding any other Code section of  
92 this article to the contrary, the fees may be extended for additional five-year periods in the  
93 manner provided for in Code Section 36-71-22 for the initial adoption, provided that the  
94 school system has experienced an increase of 3 percent in the number of students enrolled

95 in at least one of the proceeding five years. The local board of education may at any time  
96 by resolution of such local board of education lower or remove such fees if the growth  
97 assumptions change."

98

**SECTION 3.**

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

104

**SECTION 4.**

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