

House Bill 1130

By: Representative Benton of the 31st

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

health, safety, and general welfare of the citizens of the State of Georgia. It is the intent of this chapter to:

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

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

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

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

SECTION 2.

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

"ARTICLE 3

36-71-20.

As used in this article, the term:

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

(2) 'High growth school system' means a school system in this state which has experienced an increase in the number of students enrolled in such school system of 15 percent or more over the immediately preceding five-year period.

36-71-21.

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

36-71-22.

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

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

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

(d) In determining the educational development impact fees, the local board of education and the educational development impact fee advisory committee shall consider the projected number of students that will come from different types of developments, such as single-family houses, apartments, condominiums, multifamily housing, age restricted communities, assisted or senior living facilities, and other residential rental properties;

provided, however, that in all other matters educational development impact fees shall be calculated as provided by and conform to the requirements of Code Section 36-71-4.

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

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

(g) The local board of education shall adopt a resolution adopting the educational development impact fee schedule and may also outline a plan for tax reduction or prevention for the citizens of the area served by the school system. Such fee schedule shall be sent to each local government in the area served by the school system.

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

36-71-23.

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

90 by resolution of such local board of education lower or remove such fees if the growth
91 assumptions change."

92 **SECTION 3.**

93 This Act shall become effective on January 1, 2023, only if an amendment to the state
94 Constitution authorizing educational development impact fees is adopted by the General
95 Assembly during its 2022 regular session and is ratified by the voters at the 2022 general
96 election. Otherwise, this Act shall not become effective and shall stand repealed by
97 operation of law on January 1, 2023.

98 **SECTION 4.**

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