Senate Bill 344

By: Senators Williams of the 27th, Beach of the 21st and Millar of the 40th

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"36-71-1.

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

(b) The General Assembly finds that an equitable program for planning and financing public facilities needed to serve new growth and development is necessary in order to 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 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, Code Sections 36-71-2 through 36-71-13 as Article 2, and 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' is a school system in this state which has either:

(A) 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; or

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

36-71-21.

Each local board of education in this state which is a high growth school system may by resolution impose, levy, and collect 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 development impact fees under this article, the 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 of one appointee by each member of the local board of education and two members appointed by the board of commissioners of the county in which the school system is located if a county school system or two members appointed by the governing authority of the municipality in which the school system is located if an independent school system. The local board of education shall designate one of the appointees of the board of education as the chairperson of the committee.

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

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

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

(f) The committee shall 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.

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

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

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

(i) At any time following the 60 day comment period provided for in subsection (h) of this Code section, the local board of education may adopt a resolution adopting the educational development impact fee schedule and outlining 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.

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

(k) Each local government in the area served by the school system shall collect the educational development impact fee 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 to reimburse such local governments for their administrative costs and shall forward the remaining amount to the local board of education."

SECTION 3.

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

SECTION 4.

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