

Senate Bill 38

By: Senators Dolezal of the 27th, Still of the 48th and Anavitarte 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

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 local school systems may require that new
23 growth and development pay a proportionate share of the cost of new public facilities
24 needed to serve 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 local 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 Sections 36-71-1 and 36-71-2 as Article
32 1, by designating Code Sections 36-71-3 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 local school system in this state with:

- 41 (A) A total increase in system-wide student enrollment of 20 percent or more during
42 the immediately preceding ten-year period; and
43 (B) Total expenditures of \$250 million or more for the construction of new educational
44 facilities as such term is defined in Code Section 20-2-260 during the immediately
45 preceding ten-year period.

46 36-71-21.

47 Each local board of education of a high growth school system may by resolution impose,
48 levy, and collect educational development impact fees within any area of such school
49 system with a total increase in student enrollment of 20 percent or more during the
50 immediately preceding ten-year period.

51 36-71-22.

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

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

59 (c) The educational development impact fee advisory committee shall serve in an advisory
60 capacity to assist and advise the local board of education with regard to the adoption of an
61 educational development impact fee resolution. Such committee shall be advisory, and no
62 action of such committee shall be considered a necessary prerequisite for action of a local
63 board of education in regard to adoption of a resolution.

64 (d) In determining the educational development impact fees, the local board of education
65 and the educational development impact fee advisory committee shall consider the

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

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

76 (f) The educational development impact fee advisory committee shall provide its
77 calculations, recommendations, and explanations in a report to the local board of education.

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

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

87 36-71-23.

88 Educational development impact fees shall be valid for a period of ten years following their
89 adoption by the local board of education. Notwithstanding any other Code section of this
90 article to the contrary, the fees may be extended for additional five-year periods in the
91 manner provided for in Code Section 36-71-22 for the initial adoption, provided that, in at

92 least one of the preceding five years, such local school system experienced an increase of
93 3 percent or more in the total number of students enrolled system wide. The local board
94 of education may at any time by resolution of such local board of education lower or
95 remove such fees if the growth assumptions change."

96 **SECTION 3.**

97 This Act shall become effective on January 1, 2027, only if an amendment to the state
98 Constitution authorizing educational development impact fees is adopted by the General
99 Assembly and is ratified by the voters at the 2026 general election. Otherwise, this Act shall
100 not become effective and shall stand repealed by operation of law on January 1, 2027.

101 **SECTION 4.**

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