

ASSEMBLY BILL

No. 133

Introduced by Assembly Member Smyth

January 20, 2009

An act to amend Section 66484 of the Government Code, relating to subdivisions.

LEGISLATIVE COUNSEL'S DIGEST

AB 133, as introduced, Smyth. Subdivisions: major thoroughfares.

The Subdivision Map Act authorizes a local agency to require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges or major thoroughfares if specified conditions are met. The fees collected are deposited in a planned bridge or major thoroughfare fund. If the benefit area of a bridge fund is one in which more than one bridge is required to be constructed, a fund may be established that covers all of the bridge projects in that benefit area. For the unincorporated area of San Diego County only, "construction" is defined to include design, acquisition of rights-of-way, actual construction, and reasonable administrative expenses, as specified.

This bill would authorize a local agency to establish a fund for a benefit area that covers all of the bridge and major thoroughfare projects in that benefit area when that benefit area is one in which more than one bridge or major thoroughfare is required to be constructed. The definition of "construction" would be expanded to include the unincorporated area of Los Angeles County for purposes of design, acquisition of rights-of-way, actual construction, and reasonable administrative expenses, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 66484 of the Government Code is
 2 amended to read:
 3 66484. (a) A local ordinance may require the payment of a
 4 fee as a condition of approval of a final map or as a condition of
 5 issuing a building permit for purposes of defraying the actual or
 6 estimated cost of constructing bridges over waterways, railways,
 7 freeways, and canyons, or constructing major thoroughfares. The
 8 ordinance may require payment of fees pursuant to this section if
 9 all of the following requirements are satisfied:
 10 (1) The ordinance refers to the circulation element of the general
 11 plan and, in the case of bridges, to the transportation or flood
 12 control provisions thereof ~~which~~ *that* identify railways, freeways,
 13 streams, or canyons for which bridge crossings are required on the
 14 general plan or local roads and in the case of major thoroughfares,
 15 to the provisions of the circulation element ~~which~~ *that* identify
 16 those major thoroughfares whose primary purpose is to carry
 17 through traffic and provide a network connecting to the state
 18 highway system, if the circulation element, transportation or flood
 19 control provisions have been adopted by the local agency 30 days
 20 prior to the filing of a map or application for a building permit.
 21 (2) The ordinance provides that there will be a public hearing
 22 held by the governing body for each area benefited. Notice shall
 23 be given pursuant to Section 65091 and shall include preliminary
 24 information related to the boundaries of the area of benefit,
 25 estimated cost, and the method of fee apportionment. The area of
 26 benefit may include land or improvements in addition to the land
 27 or improvements ~~which~~ *that* are the subject of any map or building
 28 permit application considered at the proceedings.
 29 (3) The ordinance provides that at the public hearing, the
 30 boundaries of the area of benefit, the costs, whether actual or
 31 estimated, and a fair method of allocation of costs to the area of
 32 benefit and fee apportionment are established. The method of fee
 33 apportionment, in the case of major thoroughfares, shall not provide
 34 for higher fees on land ~~which~~ *that* abuts the proposed improvement
 35 except where the abutting property is provided direct usable access

1 to the major thoroughfare. A description of the boundaries of the
2 area of benefit, the costs, whether actual or estimated, and the
3 method of fee apportionment established at the hearing shall be
4 incorporated in a resolution of the governing body, a certified copy
5 of which shall be recorded by the governing body conducting the
6 hearing with the recorder of the county in which the area of benefit
7 is located. The apportioned fees shall be applicable to all property
8 within the area of benefit and shall be payable as a condition of
9 approval of a final map or as a condition of issuing a building
10 permit for the property or portions of the property. Where the area
11 of benefit includes lands not subject to the payment of fees pursuant
12 to this section, the governing agency shall make provision for
13 payment of the share of improvement costs apportioned to those
14 lands from other sources.

15 (4) The ordinance provides that payment of fees shall not be
16 required unless the major thoroughfares are in addition to, or a
17 reconstruction of, any existing major thoroughfares serving the
18 area at the time of the adoption of the boundaries of the area of
19 benefit.

20 (5) The ordinance provides that payment of fees shall not be
21 required unless the planned bridge facility is an original bridge
22 serving the area or an addition to any existing bridge facility
23 serving the area at the time of the adoption of the boundaries of
24 the area of benefit. The fees shall not be expended to reimburse
25 the cost of existing bridge facility construction.

26 (6) The ordinance provides that if, within the time when protests
27 may be filed under the provisions of the ordinance, there is a
28 written protest, filed with the clerk of the legislative body, by the
29 owners of more than one-half of the area of the property to be
30 benefited by the improvement, and sufficient protests are not
31 withdrawn so as to reduce the area represented to less than one-half
32 of that to be benefited, then the proposed proceedings shall be
33 abandoned, and the legislative body shall not, for one year from
34 the filing of that written protest, commence or carry on any
35 proceedings for the same improvement or acquisition under the
36 provisions of this section.

37 (b) Any protest may be withdrawn by the owner protesting, in
38 writing, at any time prior to the conclusion of a public hearing held
39 pursuant to the ordinance.

1 (c) If any majority protest is directed against only a portion of
2 the improvement, then all further proceedings under the provisions
3 of this section to construct that portion of the improvement so
4 protested against shall be barred for a period of one year, but the
5 legislative body may commence new proceedings not including
6 any part of the improvement or acquisition so protested against.
7 Nothing in this section prohibits a legislative body, within that
8 one-year period, from commencing and carrying on new
9 proceedings for the construction of a portion of the improvement
10 so protested against if it finds, by the affirmative vote of four-fifths
11 of its members, that the owners of more than one-half of the area
12 of the property to be benefited are in favor of going forward with
13 that portion of the improvement or acquisition.

14 (d) Nothing in this section precludes the processing and
15 recordation of maps in accordance with other provisions of this
16 division if the proceedings are abandoned.

17 (e) Fees paid pursuant to an ordinance adopted pursuant to this
18 section shall be deposited in a planned bridge facility or major
19 thoroughfare fund. A fund shall be established for each planned
20 bridge facility project or each planned major thoroughfare project.
21 If the benefit area is one in which more than one bridge *or major*
22 *thoroughfare* is required to be constructed, a fund may be so
23 established covering all of the bridge *and major thoroughfare*
24 projects in the benefit area. Money in the fund shall be expended
25 solely for the construction or reimbursement for construction of
26 the improvement *or improvements* serving the area to be benefited
27 and from which the fees comprising the fund were collected, or to
28 reimburse the local agency for the cost of constructing the
29 improvement *or improvements*.

30 (f) An ordinance adopted pursuant to this section may provide
31 for the acceptance of considerations in lieu of the payment of fees.

32 (g) A local agency imposing fees pursuant to this section may
33 advance money from its general fund or road fund to pay the cost
34 of constructing the improvements and may reimburse the general
35 fund or road fund for any advances from planned bridge facility
36 or major thoroughfares funds established to finance the construction
37 of those improvements.

38 (h) A local agency imposing fees pursuant to this section may
39 incur an interest-bearing indebtedness for the construction of bridge
40 facilities or major thoroughfares. However, the sole security for

1 repayment of that indebtedness shall be moneys in planned bridge
2 facility or major thoroughfares funds.

3 (i) The term “construction” as used in this section includes
4 design, acquisition of right-of-way, administration of construction
5 contracts, and actual construction.

6 (j) The term “construction,” as used in this section, with respect
7 to the unincorporated-~~area~~ *areas* of San Diego County *and Los*
8 *Angeles County* only, includes design, acquisition of rights-of-way,
9 and actual construction, including, but not limited to, all direct and
10 indirect environmental, engineering, accounting, legal,
11 administration of construction contracts, and other services
12 necessary therefor. The term “construction,” with respect to the
13 unincorporated-~~area~~ *areas* of San Diego County *and Los Angeles*
14 *County* only, also includes reasonable administrative expenses,
15 not exceeding three hundred thousand dollars (\$300,000) in any
16 calendar year after January 1, 1986, as adjusted annually for any
17 increase or decrease in the Consumer Price Index of the Bureau
18 of Labor Statistics of the United States Department of Labor for
19 all Urban Consumers, San Diego, California (1967 = 100), *and*
20 *Los Angeles-Long Beach-Anaheim, California (1967 = 100),*
21 *respectively*, as published by the United States Department of
22 Commerce for the purpose of constructing bridges and major
23 thoroughfares. “Administrative expenses” means those office,
24 personnel, and other customary and normal expenses associated
25 with the direct management and administration of the agency, but
26 not including costs of construction.

27 (k) Nothing in this section precludes a county or city from
28 providing funds for the construction of bridge facilities or major
29 thoroughfares to defray costs not allocated to the area of benefit.

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