

AMENDED IN ASSEMBLY JANUARY 4, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

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 amended, 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" *for the unincorporated area of San Diego County* would ~~be expanded to include also be applied to the unincorporated area of Los Angeles County for purposes of design,~~

~~acquisition of rights-of-way, actual construction, and reasonable administrative expenses, as specified. However, with respect to Los Angeles County only, in specified circumstances, “construction” would be defined to include administration of construction contracts, rather than administrative expenses.~~

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 that identify railways, freeways, streams,
13 or canyons for which bridge crossings are required on the general
14 plan or local roads and in the case of major thoroughfares, to the
15 provisions of the circulation element that identify those major
16 thoroughfares whose primary purpose is to carry through traffic
17 and provide a network connecting to the state highway system, if
18 the circulation element, transportation or flood control provisions
19 have been adopted by the local agency 30 days prior to the filing
20 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 that are the subject of any map or building permit
28 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

1 estimated, and a fair method of allocation of costs to the area of
2 benefit and fee apportionment are established. The method of fee
3 apportionment, in the case of major thoroughfares, shall not provide
4 for higher fees on land that abuts the proposed improvement except
5 where the abutting property is provided direct usable access to the
6 major thoroughfare. A description of the boundaries of the area of
7 benefit, the costs, whether actual or estimated, and the method of
8 fee apportionment established at the hearing shall be incorporated
9 in a resolution of the governing body, a certified copy of which
10 shall be recorded by the governing body conducting the hearing
11 with the recorder of the county in which the area of benefit is
12 located. The apportioned fees shall be applicable to all property
13 within the area of benefit and shall be payable as a condition of
14 approval of a final map or as a condition of issuing a building
15 permit for the property or portions of the property. Where the area
16 of benefit includes lands not subject to the payment of fees pursuant
17 to this section, the governing agency shall make provision for
18 payment of the share of improvement costs apportioned to those
19 lands from other sources.

20 (4) The ordinance provides that payment of fees shall not be
21 required unless the major thoroughfares are in addition to, or a
22 reconstruction of, any existing major thoroughfares serving the
23 area at the time of the adoption of the boundaries of the area of
24 benefit.

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

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

1 proceedings for the same improvement or acquisition under the
2 provisions of this section.

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

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

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

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

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

37 (g) A local agency imposing fees pursuant to this section may
38 advance money from its general fund or road fund to pay the cost
39 of constructing the improvements and may reimburse the general
40 fund or road fund for any advances from planned bridge facility

1 or major thoroughfares funds established to finance the construction
2 of those improvements.

3 (h) A local agency imposing fees pursuant to this section may
4 incur an interest-bearing indebtedness for the construction of bridge
5 facilities or major thoroughfares. However, the sole security for
6 repayment of that indebtedness shall be moneys in planned bridge
7 facility or major thoroughfares funds.

8 (i) (1) The term “construction” as used in this section includes
9 design, acquisition of ~~right-of-way~~ *rights-of-way*, administration
10 of construction contracts, and actual construction.

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

33 (B) *Notwithstanding subparagraph (A), the term “construction,”*
34 *as used in this section, with respect to Los Angeles County only,*
35 *shall have the same meaning as in paragraph (1), if the area of*
36 *benefit includes both a city or a portion thereof and adjacent*
37 *portions of unincorporated area, and if all of the bridge and major*
38 *thoroughfare project improvements lie within the boundaries of*
39 *the city.*

40 (k)

- 1 *(j)* Nothing in this section precludes a county or city from
- 2 providing funds for the construction of bridge facilities or major
- 3 thoroughfares to defray costs not allocated to the area of benefit.