

AMENDED IN SENATE MAY 20, 2010  
AMENDED IN ASSEMBLY JANUARY 4, 2010  
CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 133**

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**Introduced by Assembly Member Smyth**

January 20, 2009

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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 also be applied to the unincorporated area of, *and, in specified circumstances, to other specified areas within*, Los Angeles County. ~~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.

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

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

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

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

1 the filing of that written protest, commence or carry on any  
2 proceedings for the same improvement or acquisition under the  
3 provisions of this section.

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

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

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

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

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

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

1 fund or road fund for any advances from planned bridge facility  
2 or major thoroughfares funds established to finance the construction  
3 of those improvements.

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

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

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

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

- 1     (3) *The term “construction,” as used in this section, with respect*  
2 *to Los Angeles County only, shall have the same meaning as in*  
3 *paragraph (2) in either of the following circumstances:*  
4     (A) *The area of benefit includes, and all of the bridge and major*  
5 *thoroughfare project improvements lie within, both a city or a*  
6 *portion of a city and adjacent portions of unincorporated area.*  
7     (B) *All of the area of benefit and all of the bridge and major*  
8 *thoroughfare project improvements lie completely within the*  
9 *boundaries of a city.*  
10    (j) Nothing in this section precludes a county or city from  
11 providing funds for the construction of bridge facilities or major  
12 thoroughfares to defray costs not allocated to the area of benefit.