

AMENDED IN ASSEMBLY MAY 2, 2011

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 147

Introduced by Assembly Member Dickinson

January 14, 2011

An act to add Section 66484.7 to the Government Code, relating to subdivisions.

LEGISLATIVE COUNSEL'S DIGEST

AB 147, as amended, Dickinson. Subdivisions.

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 Mitigation Fee Act authorizes a local agency to charge a variety of fees, dedications, reservations, or other exactions in connection with the approval of a development project, as defined.

This bill would authorize a local ordinance to require payment of a fee subject to the Mitigation Fee Act, 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 transportation facilities, as defined.

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 66484.7 is added to the Government
2 Code, to read:

3 66484.7. (a) A local ordinance may require the payment of a
4 fee, subject to the Mitigation Fee Act (Chapter 5—~~commencing~~
5 *commencing* with Section 66000), Chapter 6 (commencing with
6 Section 66010), Chapter 7 (commencing with Section 66012),
7 Chapter 8 (commencing with Section 66016), and Chapter 9
8 (commencing with Section 66020) of Division 1), as a condition
9 of approval of a final map or as a condition of issuing a building
10 permit for purposes of defraying the actual or estimated cost of
11 constructing transportation facilities. For purposes of this section,
12 transportation facilities mean pedestrian, bicycle, transit, and
13 traffic-calming facilities. The ordinance may require payment of
14 fees pursuant to this section if all of the following requirements
15 are satisfied:

16 (1) The ordinance refers to the circulation element of the general
17 plan and to the provisions of the circulation element that identify
18 those transportation facilities that are required to minimize the use
19 of automobiles and minimize the traffic impacts of new
20 development on existing roads, if the circulation element provisions
21 have been adopted by the local agency 30 days prior to the filing
22 of a map or application for a building permit.

23 (2) The ordinance provides that there will be a public hearing
24 held by the governing body for each area benefited. Notice shall
25 be given pursuant to Section 65091 and shall include preliminary
26 information related to the boundaries of the area of benefit,
27 estimated cost, and the method of fee apportionment. The area of
28 benefit may include land or improvements in addition to the land
29 or improvements that are the subject of any map or building permit
30 application considered at the proceedings.

31 (3) The ordinance provides that at the public hearing the
32 boundaries of the area of benefit, the costs, whether actual or
33 estimated, and a fair method of allocation of costs to the area of
34 benefit and fee apportionment are established. A description of
35 the boundaries of the area of benefit, the costs, whether actual or
36 estimated, and the method of fee apportionment established at the
37 hearing shall be incorporated in a resolution of the governing body,
38 a certified copy of which shall be recorded by the governing body

1 conducting the hearing with the recorder of the county in which
2 the area of benefit is located. The apportioned fees shall be
3 applicable to all property within the area of benefit and shall be
4 payable as a condition of approval of a final map or as a condition
5 of issuing a building permit for the property or portions of the
6 property. Where the area of benefit includes lands not subject to
7 the payment of fees pursuant to this section, the governing agency
8 shall make provision for payment of the share of improvement
9 costs apportioned to those lands from other sources.

10 (4) The ordinance provides that if, within the time when protests
11 may be filed under the provisions of the ordinance, there is a
12 written protest, filed with the clerk of the legislative body, by the
13 owners of more than one-half of the area of the property to be
14 benefited by the improvement, and sufficient protests are not
15 withdrawn so as to reduce the area represented to less than one-half
16 of that to be benefited, then the proposed proceedings shall be
17 abandoned, and the legislative body shall not, for one year from
18 the filing of that written protest, commence or carry on any
19 proceedings for the same improvement or acquisition under the
20 provisions of this section.

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

24 (c) If any majority protest is directed against only a portion of
25 the improvement, then all further proceedings under the provisions
26 of this section to construct that portion of the improvement so
27 protested against shall be barred for a period of one year, but the
28 legislative body may commence new proceedings not including
29 any part of the improvement or acquisition so protested against.
30 Nothing in this section prohibits a legislative body, within that
31 one-year period, from commencing and carrying on new
32 proceedings for the construction of a portion of the improvement
33 so protested against if it finds, by the affirmative vote of four-fifths
34 of its members, that the owners of more than one-half of the area
35 of the property to be benefited are in favor of going forward with
36 that portion of the improvement or acquisition.

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

1 (e) Fees paid pursuant to an ordinance adopted pursuant to this
2 section shall be deposited in a planned transportation facility fund.
3 A fund shall be established for each planned transportation facility
4 project. If the benefit area is one in which more than one other
5 transportation facility is required to be constructed, a fund may be
6 established covering all of the other transportation facility projects
7 in the benefit area. Money in the fund shall be expended solely for
8 the construction or reimbursement for construction of the
9 improvement or improvements serving the area to be benefited
10 and from which the fees comprising the fund were collected, or to
11 reimburse the local agency for the cost of constructing the
12 improvement or improvements.

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

15 (g) A local agency imposing fees pursuant to this section may
16 advance money from its general fund or road fund to pay the cost
17 of constructing the improvements and may reimburse the general
18 fund or road fund for any advances from other transportation
19 facility funds established to finance the construction of those
20 improvements.

21 (h) A local agency imposing fees pursuant to this section may
22 incur an interest-bearing indebtedness for the construction of other
23 transportation facilities. However, the sole security for repayment
24 of that indebtedness shall be moneys in planned transportation
25 facility funds.

26 (i) *As used in this section, "construction" includes design,*
27 *acquisition of rights-of-way, administration of construction*
28 *contracts, and actual construction.*

29 (i)

30 (j) Nothing in this section precludes a county or city from
31 providing funds for the construction of other transportation
32 facilities to defray costs not allocated to the area of benefit.