

AMENDED IN SENATE MAY 31, 2011

AMENDED IN ASSEMBLY MAY 2, 2011

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 147**

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**Introduced by Assembly Member Dickinson**

January 14, 2011

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An act to add ~~Section 66484.7~~ *Sections 66484.7 and 66484.9* 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 fees, to be used for various purposes~~, as a condition of approval of a final map or as a condition of issuing a building permit, *including, among others*, 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.

*This bill would specify that the authorizations to impose the fees, as specified, is in addition to other authority granted by law to local*

agencies relating to subdivisions, and is not to be construed as a limitation or diminution of that other authority.

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

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

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

30 (3) The ordinance provides that at the public hearing the  
31 boundaries of the area of benefit, the costs, whether actual or  
32 estimated, and a fair method of allocation of costs to the area of  
33 benefit and fee apportionment are established. A description of

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

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

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

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

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

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

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

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

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

29 (i) As used in this section, “construction” includes design,  
30 acquisition of rights-of-way, administration of construction  
31 contracts, and actual construction.

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

35 *SEC. 2. Section 66484.9 is added to the Government Code, to*  
36 *read:*

37 *66484.9. The authorizations granted by this article are*  
38 *additional to all other authority granted by law to local agencies*

- 1 *relating to subdivisions and shall in no way be construed as a*
- 2 *limitation on or diminution of that authority.*

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