

ASSEMBLY BILL

No. 2354

Introduced by Assembly Member Olberg

February 20, 1998

An act to amend Section 66006 of the Government Code, relating to development.

LEGISLATIVE COUNSEL'S DIGEST

AB 2354, as introduced, Olberg. Development: fees.

Existing law requires a local agency that charges fees in connection with a development project to deposit the fees for the improvement in a separate capital facilities account or fund to avoid the commingling of these fees with other revenues and funds of the local agency, except for temporary investments, and to expend these fees solely for the purpose for which the fees were collected. Any interest income earned by these moneys is required to be deposited in the same account and used for the same purposes.

Existing law also requires that, for each separate account or fund established under these provisions, the local agency shall make available to the public specified information relating to the fee, interest, other income, expenditures, and refunds occurring during the fiscal year and review the information made available to the public at the local agency's next regularly scheduled public meeting.

This bill would make subject to these provisions any fee collected in connection with a development agreement between a city, county, or city and county and any person having a legal or equitable interest in real property.

This bill, by requiring additional duties of local agencies, would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 66006 of the Government Code
2 is amended to read:

3 66006. (a) If a local agency requires the payment of
4 a fee specified in subdivision (c) in connection with the
5 approval of a development project, the local agency
6 receiving the fee shall deposit it with the other fees for the
7 improvement in a separate capital facilities account or
8 fund in a manner to avoid any commingling of the fees
9 with other revenues and funds of the local agency, except
10 for temporary investments, and expend those fees solely
11 for the purpose for which the fee was collected. Any
12 interest income earned by moneys in the capital facilities
13 account or fund shall also be deposited in that account or
14 fund and shall be expended only for the purpose for
15 which the fee was originally collected.

16 (b) (1) For each separate account or fund established
17 pursuant to subdivision (a), the local agency shall, within
18 180 days after the last day of each fiscal year, make
19 available to the public the following information for the
20 fiscal year:

21 (A) A brief description of the type of fee in the account
22 or fund.

23 (B) The amount of the fee.

24 (C) The beginning and ending balance of the account
25 or fund.

26 (D) The amount of the fees collected and the interest
27 earned.



1 (E) An identification of each public improvement on
2 which fees were expended and the amount of the
3 expenditures on each improvement, including the total
4 percentage of the cost of the public improvement that
5 was funded with fees.

6 (F) An identification of an approximate date by which
7 the construction of the public improvement will
8 commence if the local agency determines that sufficient
9 funds have been collected to complete financing on an
10 incomplete public improvement, as identified in
11 paragraph (2) of subdivision (a) of Section 66001, and the
12 public improvement remains incomplete.

13 (G) A description of each interfund transfer or loan
14 made from the account or fund, including the public
15 improvement on which the transferred or loaned fees will
16 be expended, and, in the case of an interfund loan, the
17 date on which the loan will be repaid, and the rate of
18 interest that the account or fund will receive on the loan.

19 (H) The amount of refunds made pursuant to
20 subdivision (e) of Section 66001 and any allocations
21 pursuant to subdivision (f) of Section 66001.

22 (2) The local agency shall review the information
23 made available to the public pursuant to paragraph (1)
24 at the next regularly scheduled public meeting not less
25 than 15 days after this information is made available to the
26 public, as required by this subdivision. Notice of the time
27 and place of the meeting, including the address where
28 this information may be reviewed, shall be mailed, at least
29 15 days prior to the meeting, to any interested party who
30 files a written request with the local agency for mailed
31 notice of the meeting. Any written request for mailed
32 notices shall be valid for one year from the date on which
33 it is filed unless a renewal request is filed. Renewal
34 requests for mailed notices shall be filed on or before
35 April 1 of each year. The legislative body may establish a
36 reasonable annual charge for sending notices based on
37 the estimated cost of providing the service.

38 (c) For purposes of this section, “fee” means ~~any fee~~
39 ~~imposed to provide for an improvement to be~~
40 ~~constructed to serve a development project, or which is~~



1 a fee for public improvements within the meaning of
2 subdivision (b) of Section 66000, and that is imposed by
3 the local agency as a condition of approving the
4 development project. *all of the following:*

5 (1) A fee imposed to provide for an improvement to
6 be constructed to serve a development project.

7 (2) A fee for public improvements within the meaning
8 of subdivision (b) of Section 66000, or that is imposed by
9 the local agency as a condition of approving the
10 development project.

11 (3) A fee collected under a development agreement
12 adopted pursuant to Article 2.5 (commencing with
13 Section 65864) of Chapter 4.

14 (d) Any person may request an audit of any local
15 agency fee or charge that is subject to Section 66023,
16 including fees or charges of school districts, in accordance
17 with that section.

18 (e) The Legislature finds and declares that untimely
19 or improper allocation of development fees hinders
20 economic growth and is, therefore, a matter of statewide
21 interest and concern. It is, therefore, the intent of the
22 Legislature that this section shall supersede all conflicting
23 local laws and shall apply in charter cities.

24 (f) At the time the local agency imposes a fee for
25 public improvements on a specific development project,
26 it shall identify the public improvement that the fee will
27 be used to finance.

28 SEC. 2. No reimbursement is required by this act
29 pursuant to Section 6 of Article XIII B of the California
30 Constitution because a local agency or school district has
31 the authority to levy service charges, fees, or assessments
32 sufficient to pay for the program or level of service
33 mandated by this act, within the meaning of Section 17556
34 of the Government Code.

35 Notwithstanding Section 17580 of the Government
36 Code, unless otherwise specified, the provisions of this act
37 shall become operative on the same date that the act
38 takes effect pursuant to the California Constitution.

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