

AMENDED IN SENATE JULY 6, 1998
AMENDED IN SENATE JUNE 25, 1998
AMENDED IN SENATE JUNE 17, 1998
AMENDED IN ASSEMBLY MAY 27, 1998
AMENDED IN ASSEMBLY APRIL 16, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2621

Introduced by Assembly Member Cardoza

February 23, 1998

An act to add Sections 6500.3, 66410.3, 66600.3, and 66800.3 to, and to add Chapter 4.95 (commencing with Section 65999.3) to Division 1 of Title 7 of, the Government Code, and to add Sections 21000.3 and 30000.3 to the Public Resources Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 2621, as amended, Cardoza. Land use.

Existing law authorizes public agencies to impose conditions including certain fees for the issuance of permits, approvals, and entitlements for development projects and other uses of real property.

This bill would ~~provide that~~ *require a public agency to make specified findings in any action imposing any obligation, condition, or exaction as a condition of a permit, approval, entitlement, or benefit, or in any action imposing any obligation, dedication, or exaction imposed in conjunction*

with an approval of a permit, approval, entitlement, or benefit on or after January 1, 1999, except when the obligation, dedication, or exaction is required of applicants generally or ministerially by local ordinance, resolution, general plan, specific plan, element, or zoning regulation, no public agency, as defined, shall impose any obligation or require any action, dedication, or exaction from any person as a condition of granting a permit, approval, entitlement, or other public benefit, unless the obligation, action, dedication, or exaction is feasible, roughly proportional in extent to the resulting impacts on public resources or burdens assumed by the agency or the public, and the least burdensome alternative meeting the 2 previous factors. The bill would not affect a public agency's ability to make a finding of overriding considerations, as specified, and would not apply to certain development agreements.

The bill would also provide that these provisions apply to all public agencies in their implementation of specified acts and that projects subject to those acts are also subject to the provisions of this bill. The bill would also ~~exempt~~ exclude school developer impact fees from its provisions.

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

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

1 SECTION 1. Section 6500.3 is added to the
 2 Government Code, to read:
 3 6500.3. Projects subject to this act are also subject to
 4 the provisions of Chapter 4.95 (commencing with Section
 5 65999.3).

6 SEC. 2. Chapter 4.95 (commencing with Section
 7 65999.3) is added to Division 1 of Title 7 of the
 8 Government Code, to read:

9
 10 CHAPTER 4.95. LAND USE CONDITIONS

11
 12 65999.3. The Legislature finds and declares that this
 13 chapter is not intended to, and does not, add to any
 14 existing authority of public agencies to issue permits,



1 grant public benefits, or require any action as a condition
2 of those permits or benefits.

3 65999.4. As used in this chapter:

4 (a) “Exaction” does not include any fee adopted
5 pursuant to *Section 66013, Chapter 4.9 (commencing*
6 *with Section 65995)*, or Chapter 5 (commencing with
7 Section 66000).

8 ~~(b) “Feasible” means capable of being accomplished~~
9 ~~in a successful manner within a reasonable period of time,~~
10 ~~taking into account economic, environmental, legal,~~
11 ~~social, and technological factors.~~

12 ~~(e)~~

13 (b) “Least burdensome alternative available” means
14 the condition or set of conditions, among those identified,
15 ~~that is the least costly or oppressive for the person seeking~~
16 ~~the permit, approval, or benefit.~~

17 ~~(d) that is the least costly or most consistent with the~~
18 ~~applicant’s objectives.~~

19 (c) “Permit,” “approval,” “entitlement,” or “benefit”
20 includes, but is not limited to, any quasi-adjudicatory or
21 quasi-legislative permit, approval, lease, license,
22 certificate, grant, plan amendment, rule amendment, or
23 zoning change for one or more specific projects.

24 ~~(e)~~

25 (d) “Public agency” means any state agency, board,
26 commission, county, city and county, city, regional
27 agency, public district, redevelopment agency, or other
28 political subdivision of the state.

29 ~~(f) “Roughly proportional in extent” means equal or~~
30 ~~reasonably comparable in level, measure, or degree.~~

31 65999.5. This chapter defines the authority of all
32 public agencies to impose conditions upon the granting
33 of any permit, approval, or entitlement, or the direct or
34 indirect conferral of a public benefit, upon any person.

35 ~~65999.6. Except when required of applicants~~
36 ~~generally or ministerially by local ordinance, resolution,~~
37 ~~general plan, specific plan, element, or zoning regulation,~~
38 ~~no public agency shall impose any obligation or require~~
39 ~~any action, dedication, or exaction from any person as a~~
40 ~~condition of granting a permit, approval, entitlement, or~~



1 ~~other public benefit, unless the obligation, action,~~
2 ~~dedication, or exaction is all of the following:~~

3 ~~(a) Feasible:~~

4 ~~(b) Roughly proportional in extent to the impacts on~~
5 ~~public resources that would result, or the burdens that~~
6 ~~would be assumed by the agency or the public, if the~~
7 ~~permit, entitlement, or benefit is granted.~~

8 ~~(c) The least burdensome alternative available that~~
9 ~~meets the criteria of subdivisions (a) and (b):~~

10 65999.6. (a) *In any action imposing any obligation,*
11 *condition, or exaction as a condition of a permit, approval,*
12 *entitlement, or benefit, or in any action imposing any*
13 *obligation, dedication, or exaction imposed in*
14 *conjunction with an approval of a permit, approval,*
15 *entitlement, or benefit by a public agency on or after*
16 *January 1, 1999, a public agency shall find all the*
17 *following:*

18 (1) *The obligation, dedication, or exaction is feasible,*
19 *as defined in Section 21061.1 of the Public Resources*
20 *Code.*

21 (2) *There is a reasonable relationship between the*
22 *obligation, condition, or exaction and the approval.*

23 (3) *There is a reasonable relationship between the cost*
24 *of the obligation, condition, or requirement and the*
25 *impact of the project.*

26 (4) *The obligation, dedication, or exaction is the least*
27 *burdensome alternative to the applicant that mitigates*
28 *the impacts of the project.*

29 (b) *The requirements of this section do not apply*
30 *when the obligation, dedication, or exaction is required*
31 *of applicants generally or ministerially by local ordinance,*
32 *resolution, general plan, specific plan, element, or zoning*
33 *regulation.*

34 (c) *This section does not affect a public agency's ability*
35 *to make a finding of overriding considerations pursuant*
36 *to Section 21081 of the Public Resources Code.*

37 (d) *This section does not apply to development*
38 *agreements approved pursuant to Section 65864.*

39 65999.7. ~~The provisions of this chapter apply to all~~
40 ~~public agencies to the extent specified in this chapter,~~



1 ~~except where application of this chapter would directly~~
2 ~~conflict with federal law.~~

3 ~~65999.8. The provisions of this chapter shall apply to~~
4 ~~the California Environmental Quality Act (Division 13~~
5 ~~(commencing with Section 21000) of the Public~~
6 ~~Resources Code), the Subdivision Map Act (Division 2~~
7 ~~*public agencies in their implementation of the*~~
8 ~~*Subdivision Map Act (Division 2 (commencing with*~~
9 ~~Section 66410) of Title 7), the San Francisco Bay~~
10 ~~Conservation and Development Commission (Chapter 1~~
11 ~~(commencing with Section 66600) of Title 7.2), the Tahoe~~
12 ~~Regional Planning Compact (Title 7.4 (commencing~~
13 ~~with Section 66800)), the Planning and Zoning Law~~
14 ~~(Division 1 (commencing with Section 65000) of Title 7),~~
15 ~~and the California Coastal Act (Division 20 (commencing~~
16 ~~with Section 30000) of the Public Resources Code). This~~
17 ~~act does not apply to school developer impact fees as~~
18 ~~provided in Chapter 4.9 (commencing with Section~~
19 ~~65995) of Division 1 of Title 7. *Public Resources Code*.~~
20 ~~*The provisions of this chapter also apply to all public*~~
21 ~~*agencies when implementing the California*~~
22 ~~*Environmental Quality Act (Division 13 (commencing*~~
23 ~~*with Section 21000) of the Public Resources Code), in*~~
24 ~~*conjunction with approvals under the acts referenced in*~~
25 ~~*this section.*~~

26 SEC. 3. Section 66410.3 is added to the Government
27 Code, to read:

28 66410.3. Projects subject to this act are also subject to
29 the provisions of Chapter 4.95 (commencing with Section
30 65999.3).

31 SEC. 4. Section 66600.3 is added to the Government
32 Code, to read:

33 66600.3. Projects subject to this act are also subject to
34 the provisions of Chapter 4.95 (commencing with Section
35 65999.3).

36 SEC. 5. Section 66800.3 is added to the Government
37 Code, to read:

38 66800.3. Projects subject to this act are also subject to
39 the provisions of Chapter 4.95 (commencing with Section
40 65999.3).



1 SEC. 6. Section 21000.3 is added to the Public
2 Resources Code, to read:

3 21000.3. Projects subject to this act are also subject to
4 the provisions of Chapter 4.95 (commencing with Section
5 65999.3) of the Government Code.

6 SEC. 7. Section 30000.3 is added to the Public
7 Resources Code, to read:

8 30000.3. Projects subject to this act are also subject to
9 the provisions of Chapter 4.95 (commencing with Section
10 65999.3) of the Government Code.

