

AMENDED IN ASSEMBLY FEBRUARY 24, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1716

Introduced by Assembly Member Torlakson

February 2, 2010

An act to amend Section 65995.7 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 1716, as amended, Torlakson. Land use: development fees: reimbursement.

Existing law authorizes a school district to levy a fee, charge, dedication, or other requirement against any construction within the boundaries of the school district for the purpose of funding the construction or reconstruction of school facilities. Existing law authorizes a school district to increase the levy, as prescribed, if state funds for new school facility construction are not available, as defined, and also authorizes a school district to offer a reimbursement election to the person subject to the increased fee, providing for reimbursement of the supplemental amount raised by the increased fee, to the extent that the district receives funds from the state for construction of the facilities for which the increased fee was required, less any amount expended by the district for interim housing.

This bill would require a person subject to the increased fee who has accepted the offer of a reimbursement election from the school district to also be reimbursed any interest on that supplemental amount accrued during the interim time period prior to the district receiving those funds, *as determined by the school district*.

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 65995.7 of the Government Code is
2 amended to read:
3 65995.7. (a) (1) If state funds for new school facility
4 construction are not available, the governing board of a school
5 district that complies with Section 65995.5 may increase the
6 alternative fee, charge, dedication, or other requirement calculated
7 pursuant to subdivision (c) of Section 65995.5 by an amount that
8 may not exceed the amount calculated pursuant to subdivision (c)
9 of Section 65995.5, except that for the purposes of calculating this
10 additional amount, the amount identified in paragraph (2) of
11 subdivision (c) of Section 65995.5 may not be subtracted from the
12 amount determined pursuant to paragraph (1) of subdivision (c)
13 of Section 65995.5. For purposes of this section, state funds are
14 not available if the State Allocation Board is no longer approving
15 apportionments for new construction pursuant to Article 5
16 (commencing with Section 17072.20) of Chapter 12.5 of Part 10
17 of the Education Code due to a lack of funds available for new
18 construction. Upon making a determination that state funds are no
19 longer available, the State Allocation Board shall notify the
20 Secretary of the Senate and the Chief Clerk of the Assembly, in
21 writing, of that determination and the date when state funds are
22 no longer available for publication in the respective journal of each
23 house. For the purposes of making this determination, the board
24 shall not consider whether funds are available for, or whether it is
25 making preliminary apportionments or final apportionments
26 pursuant to, Article 11 (commencing with Section 17078.10) of
27 Chapter 12.5 of Part 10 of the Education Code.
28 (2) *Paragraph (1) shall become inoperative commencing on*
29 *the effective date of the act that added this paragraph, and shall*
30 *remain inoperative through the earlier of either of the following:*
31 (A) *November 5, 2002, if the voters reject the Kindergarten*
32 *University Public Education Facilities Bond Act of 2002, after*
33 *which date paragraph (1) shall again become operative.*
34 (B) *The date of the 2004 direct primary election after which*
35 *date paragraph (1) shall again become operative.*

1 (b) A governing board may offer a reimbursement election to
2 the person subject to the increased fee, charge, dedication, or other
3 requirement that provides the person with the right to monetary
4 reimbursement of the supplemental amount authorized by this
5 section, to the extent that the district receives funds from state
6 sources for construction of the facilities for which that
7 supplemental amount was required, plus any interest on that
8 supplemental amount accrued during the interim time period prior
9 to the district receiving those funds, *as determined by the school*
10 *district*, less any amount expended by the district for interim
11 housing. At the option of the person subject to the increased fee,
12 charge, dedication, or other requirement the reimbursement election
13 may be made on a tract or lot basis. Reimbursement of available
14 funds shall be made within 30 days as they are received by the
15 district.

16 (c) A governing board may offer the person subject to the fee,
17 charge, dedication, or other requirement an opportunity to negotiate
18 an alternative reimbursement agreement if the terms of the
19 agreement are mutually agreed upon.

20 (d) A governing board may provide that the rights granted by
21 the reimbursement election or the alternative reimbursement
22 agreement are assignable.