

METHODS OF FINANCING

As economic development continues and homes and apartments and business multiply, school facilities must be built or expanded to accommodate a growing number of students. The purchase of school sites and the construction of buildings may be financed by any legally provided means which the district is qualified to employ.

Developer Fees

In order to finance the construction or reconstruction of school facilities needed to accommodate students coming from new development, the Board may levy developer fees on residential, commercial and industrial construction within the district, subject to restrictions specified by law. (Government Code 53080, 65995)

Findings/Fee Levying/Exemptions

The Superintendent or designee shall establish procedures for the timely and consistent levying of developer fees in accordance with the requirements of law. He/she shall cooperate with local governmental agencies in issuing building permits. (Government Code 53080)

The Board shall regularly review its school construction plans to evaluate its capital needs and its need for developer fees.

Fees may be revised in accordance with the increase legally allowed for inflation as determined every two years by the State Allocation Board. (Government Code 65995)

Developer fees shall be deposited, invested, accounted for and expended pursuant to Government Code 66006.

The district shall annually make findings regarding any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit. The Board will take action based on its findings in accordance with law. (Government Code 66001)

Developer fees shall be deposited in a separate capital facilities account, except for temporary investments allowed by law, and shall be used only for the purpose for which they were collected. Interest income earned by the capital facilities account shall also be deposited in that account and used only for the purpose for which the fee was originally collected. (Government Code 66006)

For each separate account so established, the district shall, within 60 days of the close of each fiscal year, make available to the public the beginning and ending balance for the fiscal year; the fee, interest and other income received; the amount of expenditure; and the amount of refunds made pursuant to Government Code 66001. The Board shall review this information at the first regularly scheduled public Board meeting which occurs 15 days after the information is made available to the public. (Government Code 66006)

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Appeals Process

The Superintendent or designee shall establish an appeals process for the handling of protests, including protests made pursuant to Government Code 66008.

Legal Reference:

EDUCATION CODE

- 15100-15592 Bonds of School District
- 15700-15754 General Provisions (State School Building Aid Law of 1949)
- 15900-15913 State School Building Aid Bond Law of 1949
- 16000-16106 State School Building Aid Law of 1952
- 16600-16613 State School Building Aid Bond Law of 1957
- 16700-16713 State School Building Aid Bond Law of 1958
- 17300-17334 Urban School Construction Aid Law of 1968
- 17680-17693 State School Building Lease-Purchase Bond Law of 1982
- 17695-17695.95 State School Building Lease-Purchase Bond Law of 1984
- 17696-17696.98 Greene-Hughes School Building Lease-Purchase Bond Law of 1986
- 17701-17758 State School Building Lease-Purchase Law of 1976

GOVERNMENT CODE

- 53080 Levies against development projects by school districts
- 53080.1 Procedures for levying fees
- 53080.2 Agreements between districts
- 53080.3 Refund of fee or charge
- 53080.4 Levies against manufactured home or mobile home
- 53080.6 Fee not allowable for reconstruction of structure damaged by disaster
- 53080.15 School districts; levies on enclosed agricultural space
- 53081 School districts; use of fees on construction
- 53175-53179.5 Integrated Financing District Act
- 53311-53317.5 Mello-Roos Community Facilities Act of 1982
- 54954.1 Mailed notice to property owners
- 54992 New or increased levies; meetings; notice; ordinance and resolution
- 65864-65867 Development agreements
- 65962 Single or multifamily development projects; adoption or increase of fee or charge
- 65970-65980.1 Interim school facilities
- 65995-65997 Payment of fees, charges, dedications or other requirements against a development project
- 66000-66009 Fees for development projects.

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Collection of School Facility Fees

I. DEFINITIONS

A. Developer Fees

1. Development Project

Development Project means any project undertaken for the purpose of development. The "development" requires the issuance of a building permit for construction of reconstruction but not a permit to operate.

2. Developer Fees

Developer fees are those authorized by Government Code Section 53080 with adjustments for inflation established by the Office of Local Assistance and approved by the Board.

B. Assessable Space

1. Residential Assessable Space

Residential assessable space is as defined and calculated by the building department of city or county, as appropriate, but excluding carports, walkway, garages, overhangs, patios, enclosed patios, and detached accessory structures or similar area.

2. Commercial/Industrial Assessable Space

Assessable commercial/industrial is as defined and calculated by the building department of city or county, as appropriate, but excluding storage areas incidental to the development, garages, parking structures, unenclosed walkways, or utility or disposal areas.

Commercial/industrial includes, but is not limited to, any hotel, inn, motel, tourist home, or other lodging for which the maximum term of occupancy for guests does not exceed 30 days.

II. INCLUSIONS

- A. The School Facility Fee shall be charged on residential, commercial, or industrial as herein defined if the fee has not been previously paid.

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- B. The developer fee will be imposed on manufactured homes or mobile homes as herein defined if all of the following conditions are met:
 - 1. It is the first time the unit is being located, installed, or occupied within the district.
 - 2. It is the first time the space or site has been occupied.
 - 3. Construction of the pad or foundation system commenced after September 1, 1986.

III. EXCLUSION

- A. There shall be no fee imposed upon any agricultural building that is not designated or used for human habitation. This includes but is not limited to barns, stables, storage sheds and lumber sheds.
- B. There shall be no fee imposed upon buildings which are used exclusively for religious purposes exempt from property taxation, private or private full-time day schools, facilities owned and occupied by public entities, and other facilities such as, but not limited to, dormitories at a college or seminary, libraries or museums that are free and open to the public, and hospitals or institutions for charitable purposes owned and used by nonprofit entities.
- C. There shall be no fee imposed upon reconstruction after a demolition, fire, earthquake, landslide, mudslide, flood, tidal wave, or other unforeseen event where there is no increase in the assessable square footage.
- D. There shall be no fee imposed upon any residential improvement, modification or reconstruction, unless the net assessable space exceeds 500 square feet.
- E. The School Facility Fee will not be charged on residential, commercial or industrial development projects where a final map has been approved and construction of that particular development project began prior to September 1, 1986. Any such project shall be determined by records held by the appropriate public agency.

IV. LEVY, TIME OF PAYMENT, AND USE OF FEES

- A. Prior to any public entity issuing a building permit for any development project not excluded by this policy, the developer shall pay the applicable school facility fee directly to the district. The district will certify to the issuing public agency that payment has been made.

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- B. The exception to "A" shall be fees for mobile homes which shall be paid at time of occupancy.
- C. All fees shall be expended for capital needs as defined in the district's Capital Improvement Program.
- D. If developer fees are returned to a developer because of the cancellation of a project, the district shall retain \$50 for special processing and handling.
- E. The district's General Fund shall be allowed three percent (3%) of all developer fees to cover the cost of the administration of this program.

V. CAPITAL IMPROVEMENT PLAN

Prior to each January of each year, the district shall prepare and/or update a five year capital improvement plan by determining the future cost of facility needs relative to growth activities, with a particular focus regarding the need to levy a developer fee. The plan shall be prepared to include, but not be limited to, the following:

- 1. The purpose of the fee.
- 2. The district's capital outlay needs for which the fees will be used. Regular maintenance and repairs, deferred maintenance, and asbestos work independent from reconstruction activities shall be excluded.
- 3. The relationship between the fee's use, the need for the public facility, and the type of development project on which the fee is imposed.

VI. ADOPTION OF PLAN

- A. By January 15 of each year, such plan shall be sent to the planning agency of each affected city and the county for review as to its consistency with the applicable General Plan.
- B. At the first meeting in April of each year, the administration shall submit the plan, with revisions required by the city(ies) and county, to the Board for their consideration. The Board shall take those actions necessary to implement the following procedures:
 - 1. Set one hearing prior to adoption of resolution.
 - 2. Post and publish a notice of hearing in one newspaper of general circulation at least 10 days prior to hearing.

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3. Send notice of such hearing at least 10 days prior to the meeting to any person who has filed a request for such information and to any other public agency that may be affected by the plan.
 4. Make the plan and any information regarding the increase in the developer fee available to the public at least 10 days prior to hearing.
 5. Adopt the plan and/or increase in the levy by resolution.
- C. If the Board takes action following the public hearing to accept the plan and to increase developer fees within the limits of the law, such action shall take effect 60 days hence.
- D. The district shall transmit to the City and/or County a copy of the resolution along with a map of the district.
- E. The funds needed to carry out the plan shall be appropriated in the budget.
- VII. APPEAL PROCEDURES TO BE USED TO CLAIM EXEMPTION FROM THE LEVY OF THE FEE ON RESIDENTIAL OR COMMERCIAL/ INDUSTRIAL DEVELOPMENT

Developers of residential, commercial, and industrial projects who claim that the levy of the fee has been inappropriately levied shall use the following procedures:

- A. Submit his/her request for exemption in writing to the Superintendent or his/her designee. This request shall be made within 10 days from the time that the fees are paid.
- B. Within 45 days from the filing of a request for exemption, the developer shall provide evidence demonstrating that his/her development will have no impact upon the district. Evidence shall include, but not limited to, the following components:
 1. Evidence showing the estimated number of students that will be generated by the project. Such evidence shall include, but not be limited to, the number of students generated by other similar type of housing, or commercial and industrial if appropriate, within the district on a first and fifth year basis.

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Evidence shall take into consideration both primary and secondary generations. Primary generations are defined as growth of population and students due directly to the construction project. Secondary generations are those population and student growth occurring because of the population increases in the primary category.

2. Evidence that the construction project will continue to be used for its current purpose for five or more years. For example, senior housing will not be converted to rental apartments for families.
 3. An analysis of the cost of needed district facilities as related to the generation of all revenues including developer fees available to reconstruct and construct facilities on a first and fifth year basis.
- C. If the Superintendent or his/her designee determines it to be appropriate, he/she may request that the evidence submitted by the developer be reviewed by an independent expert to determine its validity. In addition, he/she may request that additional research and analysis be conducted by the independent expert. This work shall be completed within 45 days from the date of the submission of the developer's evidence. The cost of such analysis shall be born by the developer and deducted from his/her paid developer fees prior to the hearing by the Board.
- D. After the Superintendent or his/her designee has received the analysis prepared by the independent expert or if the Superintendent or his/her designee waives this step, he/she shall submit the request for exemption including the prepared data at the next official Board meeting along with his/her recommendation in order for the Board to transact the required hearing.
- E. After the Board has considered all of the evidence submitted to it including the recommendation of the Superintendent or his/her designee, the Board shall take action to approve or deny the petition for an amount of the levy if it determines such action is appropriate.