

Levying a Developer Fee

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California Senate Bill 50

- Signed into law August 28, 1998
- Authorizes school districts to levy developer fees
- Allows for higher fees



Authority

- Authority of School District to Levy Fees
(Education Code § 17620)



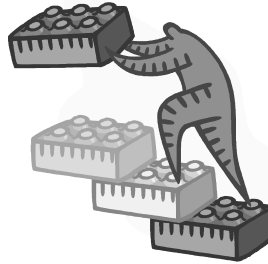
Education Code § 17620

- "The governing board of any school district is authorized to levy a fee, charge, dedication or other requirement against any construction within the boundaries of the district, for the purpose of funding the construction or reconstruction of school facilities, subject to any limitations set forth in the Government Code commencing with Section 65995."

Developer Fees

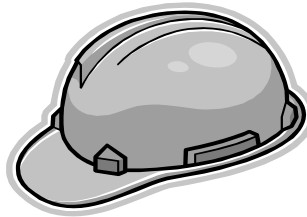
- There are 3 types of developer fees
- They are referred to as Level 1, Level 2 and Level 3.

(Govt. Code § 65995,
et seq.)



Level 1 Developer Fees

- Applies to both residential and commercial construction (Govt. Code § 65995)



Level 1 Developer Fee Levy Requirements

- Fee justification study pursuant to Education Code § 17621 and Govt. Code § 66001



Level 2 Developer Fees

- Assessed if State funds are available
- Applies solely to residential construction
- Intended to represent 50% of school construction costs per household served (Govt. Code § 65995.5)



Level 2 Developer Fees Levy Requirements

- Timely application to State Allocation Board
- School Facility Needs Analysis
- Satisfy Govt. Code § 65995.5(b)(3)




Level 2 Developer Fee Levy Requirements

- After 1/1/00, must satisfy 2 of the 4 following requirements:
 - Substantial enrollment in MTYRE
 - District gets 50%+1 vote on local bond measure in last 4 years
 - District issued debt or incurred obligations for capital outlay of 15/30% of bonding capacity
 - At least 20% of teaching stations are relocatable classrooms




Application to State Allocation Board

- Application must be determined by State Allocation Board to meet the eligibility requirements for new construction (Educ. Code §§ 17071.10 and 17071.75)
 - School District's application is deemed eligible if the SAB fails to notify the district within 120 days of receipt of the application.
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School Facility Needs Analysis

- Project the number of unhoused school pupils generated by residential units (elementary, middle, high school) of pupils enrolled in the district (Govt. Code § 65995.6)
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School Facility Needs Analysis

- Level 2 fees may be used only to finance the school facilities identified in the School Facility Needs Analysis per projected enrollment growth of new construction



Level 3 Developer Fees

- Assessed if State funds are not available
- Applies solely to residential construction
- Intended to serve 100% of school construction costs per household served (Govt. Code § 65995.7)



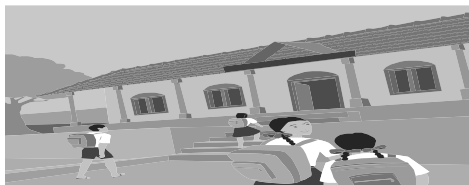
Level 3 Developer Fee Levy Requirements

- State funds are unavailable
- School Facility Needs Analysis
- School District adopted the Level 2 fee pursuant to Section 65995.5



Level 3 Fees


- Level 3 fees may be used only to finance the school facilities identified in the School Facility Needs Analysis, as attributable to projected enrollment growth from the construction of new residential units. (Govt. Code § 65995.5(f))





Closing Remarks

This discussion and materials have been prepared for informational purposes only and have not been prepared for the provision of legal services. Please do not rely on this presentation for a legal opinion or legal advice. Any legal issues for your organization should be addressed to counsel for an opinion based on the facts and circumstances unique to your organization.



Thank You.

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