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AB-3177 Mitigation Fee Act: land dedications: mitigating vehicular traffic impacts. (2023-2024)

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Assembly Bill No. 3177

CHAPTER 436

An act to amend Section 66005.1 of the Government Code, relating to housing.

[Approved by Governor September 22, 2024. Filed with Secretary of State September 22, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3177, Wendy Carrillo. Mitigation Fee Act: land dedications: mitigating vehicular traffic impacts.

Existing law, the Mitigation Fee Act, imposes various requirements with respect to the establishment, increase, or imposition of a fee by a local agency as a condition of approval of a development project. Existing law requires a local agency that imposes a fee on a housing development for the purpose of mitigating vehicular traffic impacts to set the rate for the fee to reflect a lower rate of automobile trip generation if the housing development satisfies specified characteristics, including that the housing development is located within $\frac{1}{2}$ mile of a transit station, as specified. Existing law defines transit station for these purposes to mean a rail or light-rail station, ferry terminal, bus hub, or bus transfer station.

This bill would instead require, for purposes of a local agency setting the rate for a mitigating vehicular traffic impacts fee to reflect a lower rate of automobile trip generation, the housing development to be located within a transit priority area, as defined, and the major transit stop, if planned, is programmed to be completed before or within one year from the scheduled completion and occupancy of the housing development.

This bill would prohibit a local agency from imposing a land dedication requirement, as defined, on a housing development to widen a roadway if the land dedication requirement is for the purpose of mitigating vehicular traffic impacts, achieving an adopted traffic level of service related to vehicular traffic, or achieving a desired roadway width. The bill, notwithstanding that prohibition, would authorize a local agency to, among other things, impose a land dedication requirement on a housing development if the housing development is not located in a transit priority area and the housing development has a linear street frontage of 500 feet or more.

By imposing a mandate on local agencies that approve housing development projects with regard to impact fees, this bill 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would incorporate additional changes to Section 66005.1 of the Government Code proposed by AB 2553 to be operative only if this bill and AB 2553 are enacted and this bill is enacted last.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 66005.1 of the Government Code is amended to read:

66005.1. (a) When a local agency imposes a fee on a housing development pursuant to Section 66001 for the purpose of mitigating vehicular traffic impacts, if that housing development satisfies all of the following characteristics, the fee, or the portion thereof relating to vehicular traffic impacts, shall be set at a rate that reflects a lower rate of automobile trip generation associated with such housing developments in comparison with housing developments without these characteristics, unless the local agency adopts findings after a public hearing establishing that the housing development, even with these characteristics, would not generate fewer automobile trips than a housing development without those characteristics:

(1) The housing development is located within a transit priority area and the major transit stop, if planned, is programmed to be completed before or within one year from the scheduled completion and occupancy of the housing development.

(2) Convenience retail uses, including a store that sells food, are located within one-half mile of the housing development.

(3) The housing development provides either the minimum number of parking spaces required by the local ordinance, or no more than one onsite parking space for zero- to two-bedroom units, and two onsite parking spaces for three or more bedroom units, whichever is less.

(b) If a housing development does not satisfy the characteristics in subdivision (a), the local agency may charge a fee that is proportional to the estimated rate of automobile trip generation associated with the housing development.

(c) (1) A local agency shall not impose a land dedication requirement on a housing development pursuant to Section 66001 to widen a roadway if the land dedication requirement is for the purpose of mitigating vehicular traffic impacts, achieving an adopted traffic level of service related to vehicular traffic, or achieving a desired roadway width.

(2) Notwithstanding paragraph (1), a local agency may do any of the following:

(A) Impose a land dedication requirement on a housing development if both of the following conditions are met:

(i) The housing development is not located in a transit priority area.

(ii) The housing development has a linear street frontage of 500 feet or more.

(B) Discretionarily impose a land dedication requirement as a condition of approval of a specific housing development project for traffic safety features if the local agency makes a finding, specific to the housing development project and supported by substantial evidence, that the land dedication requirement is necessary to preserve the health, safety, and welfare of the public, including pedestrians, cyclists, and children.

(C) Impose a land dedication requirement to construct public improvements, including, but not limited to, sidewalk and sewer improvements.

(d) For purposes of this section:

(1) "Housing development" means a development project with common ownership and financing consisting of residential use or mixed use where not less than 50 percent of the floorspace is for residential use.

(2) "Land dedication" means a physical exaction of property for public use without compensation, whether imposed on an ad hoc or legislative basis, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project.

(3) "Roadway" means the same as defined in Section 530 of the Vehicle Code.

(4) "Transit priority area" means the same as defined in paragraph (7) of subdivision (a) of Section 21099 of the Public Resources Code.

(e) This section shall become operative on January 1, 2011.

SEC. 1.5. Section 66005.1 of the Government Code is amended to read:

66005.1. (a) When a local agency imposes a fee on a housing development pursuant to Section 66001 for the purpose of mitigating vehicular traffic impacts, if that housing development satisfies all of the following characteristics, the fee, or the portion

thereof relating to vehicular traffic impacts, shall be set at a rate that reflects a lower rate of automobile trip generation associated with such housing developments in comparison with housing developments without these characteristics, unless the local agency adopts findings after a public hearing establishing that the housing development, even with these characteristics, would not generate fewer automobile trips than a housing development without those characteristics:

(1) The housing development is located within a transit priority area and the major transit stop, if planned, is programmed to be completed before or within one year from the scheduled completion and occupancy of the housing development.

(2) Convenience retail uses, including a store that sells food, are located within one-half mile of the housing development.

(3) The housing development provides either the minimum number of parking spaces required by the local ordinance, or no more than one onsite parking space for zero- to two-bedroom units, and two onsite parking spaces for three or more bedroom units, whichever is less.

(b) If a housing development does not satisfy the characteristics in subdivision (a), the local agency may charge a fee that is proportional to the estimated rate of automobile trip generation associated with the housing development.

(c) (1) A local agency shall not impose a land dedication requirement on a housing development pursuant to Section 66001 to widen a roadway if the land dedication requirement is for the purpose of mitigating vehicular traffic impacts, achieving an adopted traffic level of service related to vehicular traffic, or achieving a desired roadway width.

(2) Notwithstanding paragraph (1), a local agency may do any of the following:

(A) Impose a land dedication requirement on a housing development if both of the following conditions are met:

(i) The housing development is not located in a transit priority area.

(ii) The housing development has a linear street frontage of 500 feet or more.

(B) Discretionarily impose a land dedication requirement as a condition of approval of a specific housing development project for traffic safety features if the local agency makes a finding, specific to the housing development project and supported by substantial evidence, that the land dedication requirement is necessary to preserve the health, safety, and welfare of the public, including pedestrians, cyclists, and children.

(C) Impose a land dedication requirement to construct public improvements, including, but not limited to, sidewalk and sewer improvements.

(d) For purposes of this section:

(1) "Housing development" means a development project with common ownership and financing consisting of residential use or mixed use where not less than 50 percent of the floorspace is for residential use.

(2) "Land dedication" means a physical exaction of property for public use without compensation, whether imposed on an ad hoc or legislative basis, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project.

(3) "Major transit stop" has the meaning as the term is defined in Section 21064.3 of the Public Resources Code, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan. "Major transit stop" includes planned major transit stops otherwise meeting this definition whose construction is programmed to be completed before or within one year from the scheduled completion and occupancy of the housing development.

(4) "Roadway" means the same as defined in Section 530 of the Vehicle Code.

(5) "Transit priority area" means the same as defined in paragraph (7) of subdivision (a) of Section 21099 of the Public Resources Code.

(e) This section shall become operative on January 1, 2011.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 66005.1 of the Government Code proposed by both this bill and Assembly Bill 2553. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2025, (2) each bill amends Section 66005.1 of the Government Code, and (3) this bill is enacted after Assembly Bill 2553, in which case Section 1 of this bill shall not become operative.