DEVELOPER FEE HANDBOOK FOR SCHOOL FACILITIES

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A User's Guide to Qualifying for, Imposing, Increasing, Collecting, Using and Accounting for School Impact Fees in California

Prepared by Lozano Smith's
Facilities & Business Practice Group

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This "Developer Fee Handbook for School Facilities" is intended by Lozano Smith to serve as a guideline to assist school districts in understanding and implementing California law and procedures concerning developer fees. The handbook includes checklists and forms to assist school districts and those working with them to implement, collect and account for developer fees. The handbook will be updated periodically to address new legislation and other legal developments.

Particularly because of the relative complexity of laws concerning developer fees, school districts are encouraged to work with their legal counsel and qualified facilities or fee consultants when reviewing developer fee issues. Because the information contained in this handbook is necessarily general, its application to a particular set of facts and circumstances may vary. For these reasons, information contained in Lozano Smith's "Developer Fee Handbook for School Facilities" does not constitute legal advice, and should not be substituted for direct consultation with qualified attorneys or other experts. Questions regarding materials contained herein or developer fees generally can be directed to any of our offices, the locations of which are noted below.

It is our pleasure to offer this contribution to the understanding of developer fee law in California, and we hope that you find this handbook useful. We welcome any suggestions or comments that you may have. Questions or comments can be directed to any of the members of the firm's Facilities and Business Practice Group.

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A Word About Our Firm

- **A**ccessibility - while each client has a primary partner responsible for all the work for that client, our entire legal staff, representing the full range of practice areas you might encounter, is available to meet a client's specific needs.

- **B**readth - our practice is focused on all aspects of education and public agency law.

- **C**lient-focus - our service to clients is responsive, personalized, and comprehensive.

Expertise

Lozano Smith is recognized statewide for its successful representation of California's public agencies. With offices in Sacramento, Walnut Creek, Fresno, Monterey, Bakersfield, San Luis Obispo, Los Angeles, and San Diego, the firm provides clients the benefits of accessibility and a comprehensive understanding of California's legal trends. The firm's attorneys practice in all state and federal courts throughout California.

Lozano Smith is a full-service law firm serving numerous public agencies in California, including hundreds of TK-12 school districts. The many longstanding relationships we have developed with educators give us an in-depth knowledge of the legal issues faced by California school districts from the classroom to the courtroom and beyond.

Lozano Smith takes pride in being the law firm clients often choose to solve the most difficult problems. The firm's approach is to provide clients with the full range of available options and strive to achieve goals determined by the clients. Attorneys of the firm remain abreast of the latest developments in matters of significance to its clients, providing the highest quality legal representation.

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FACILITIES & BUSINESS PRACTICE GROUP

A Word About Our Practice Group

Public entities face a variety of complicated facilities and business issues. Lozano Smith's Facilities & Business Practice Group was formed to provide efficient, professional advice to public entities needing guidance regarding these issues.

Our team has extensive experience in the constantly evolving areas of facilities, finance, property and business. That experience includes: 1) construction - preparation of contracts for architects, contractors, construction managers, inspectors of record and other service providers, bidding disputes, defective work claims, extra work claims, delay claims, liquidated damages, surety takeovers and the arbitration, mediation and litigation proceedings arising out of construction; 2) real property - contract disputes, property acquisition, school site issues, sales of surplus property, eminent domain, relocation assistance, land use, environmental and toxic and hazardous materials, leases and redevelopment; 3) school facility financing - developer fees, special tax and bond elections and state funding programs; 4) intergovernmental relations concerning land use planning, joint use agreements and approvals required from other governmental agencies; 5) the California Environmental Quality Act; and 6) contract review and preparation.

Public Finance

In matters of capital funding for public facilities, the firm offers impressive credentials. Lozano Smith, through its Public Finance Practice Group, regularly serves public agencies as Bond Counsel, Disclosure Counsel, Tax Counsel, and Issuer's Counsel, in connection with the issuance of Municipal Securities including General Obligation Bonds, Special tax Bonds, Certificates of Participation and other lease financings, and various short term notes. The firm regularly assists clients with placing bond measures and special tax measures on the local ballot, and provides expert advice regarding permissible and impermissible political activities in connection with such elections. Lozano Smith has gained success for its clients in dealing with various state and federal agencies, including the Office of Public School Construction (OPSC) and the State Allocation Board (SAB), the Internal Revenue Service, and the Securities and Exchange Commission.

School Construction

The construction of new facilities or modernization of existing facilities is an issue common to many of the firm's clients. While each new project presents unique circumstances, many considerations are common to most projects. Lozano Smith has accounted for these considerations in contractual documents it has prepared to assist clients through a construction

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project. These include the architect agreement, construction and management contract, purchase/sale agreement, lease/purchase agreement, and similar documents. Among the most important provisions contained in these documents are those which address the resolution of conflicts, including mediation, arbitration, and litigation. As part of the firm's service, strategies are developed in advance as to how the project should progress. Attention is given to alternative dispute resolution, an area in which the firm has realized success on a consistent basis with the help of skilled construction mediators. Such success is evidenced by favorable settlements in Campbell Construction v. Antioch Unified School District, DeSilva v. Antioch School District, Hartford Fire Insurance v. Live Oak Elementary School District, Walsh Pacific v. Salinas Union High School District, and by a dismissal in the case of Mauldin-Dorfmeier v. Lemoore Elementary School District.

Real Property

Lozano Smith has dealt with numerous real property issues, from the simple to the complex. This has included novel acquisition or disposal issues, responding to legal challenges, and negotiation of transactions. We have an extensive library of model agreements, checklists and other documents useful for most real property issues faced by school districts. The firm has assisted in both the sale and the acquisition of numerous school properties, as well as in land exchanges, leases, and other types of transactions. This includes properties that have been contaminated, lands that involve disputed ownership, and other novel situations.

California Environmental Quality Act

The firm deals routinely with environmental issues in the many land use and property acquisition matters it conducts. In several such matters, precedential law was established.

The case of Kaufman & Broad, South Bay, Inc. v. Morgan Hill Unified School District, in which the firm represented the school district, called into question whether the creation of a Mello-Roos district gives rise to the applicability of the California Environmental Quality Act (CEQA). It was held that insofar as such districts are formed for the raising of revenues, they are not site specific, and thus not subject to the provisions of CEQA.

The firm has successfully handled numerous environmental challenges to school construction projects, including: construction of contested schools in the California Coastal Zone; projects involving sales, restoration or demolition of historic school buildings; new school projects on sites alleged to harm threatened species; and school projects challenged by neighbors. The firm also has experience representing school districts in their own environmental challenges to other public and private projects.

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I. DEVELOPER FEES FOR SCHOOL FACILITIES IN CALIFORNIA: A BRIEF HISTORY

A. THE 1986 LEGISLATION.

In 1986, the California Legislature authorized school districts to levy school impact or developer fees to fund school facilities. Under this scheme, the amount that could be levied was $1.50 per square foot for residential development and $0.25 per square foot for commercial and industrial development with inflationary adjustments to be adopted every other year. These fees were initially known as "Sterling" fees. The 1986 law appeared to some, on its face, to prohibit municipalities from requiring fees in excess of the statutory amounts to fund schools or from denying requests for development approvals on the basis of inadequate school facilities. Specifically, Government Code Section 65996 prohibited local agencies from denying approval of a "project" on the basis of the adequacy of school facilities.

B. JUDICIAL INTERPRETATION.

A series of significant appellate court decisions held that the limitations of the 1986 law applied only to adjudicative or ministerial decisions (such as approvals of parcel maps, use permits, and building permits), and not to legislative or discretionary decisions (such as general plan amendments and zoning changes). (*Mira Development Corp. v. City of San Diego (1988) 205 Cal.App.3d 1201 ("Mira"); William S. Hart Union High School v. Regional Planning Commission (1991) 226 Cal.App.3d 1612 ("Hart")*; and *Murrieta Valley Unified School District v. County of Riverside (1991) 228 Cal.App.3d 1212 ("Murrieta").)*

Mira/Hart/Murrieta allowed cities and counties to use their legislative "police power" over land use to assist school districts by requiring developer fees, land dedications, or other measures to mitigate fully the impacts of development on school facilities, even if the mitigation measures exceeded the then applicable statutory fee. In addition to exercising their police powers to control land development, municipalities have a duty to assess and mitigate the environmental effects of development under the California Environmental Quality Act (CEQA) (Public Resources Code Sections 21000, et seq.). These cases thus allowed cities and counties to impose additional mitigation measures under CEQA for school facilities.

C. RETREAT FROM MIRA/HART/MURRIETA.

Following the *Murrieta* case, the building industry stepped up efforts to achieve through the Legislature what the courts had denied. The first significant change came in Senate Bill ("S.B.") 1287 in 1992. S.B. 1287 was an effort at a compromise which would

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become a common theme: trading approval of statewide bond issues in exchange for an attempted hard cap on developer fees. S.B. 1287 attempted to cap the fee at $2.65, but that cap was conditional. It would be lifted in the event that ACA 6, a constitutional amendment that would return state school bonds to a simple majority vote, did not pass. When ACA 6 was defeated by the electorate, S.B. 1287 was repealed in 1993. For the ensuing 5 years, the building industry continued to attempt legislative "reform" without success. One significant effect was that no state bond measure was put out to the voters until 1998, as the bond was held up in negotiations over the fee issue. Ironically, the lack of state funding only increased the need for local funding, thus driving up justifiable school impact fees.

D. SENATE BILL 50.

Senate Bill ("S.B.") 50, which became fully effective on November 4, 1998, represents the compromise ultimately reached. S.B. 50, which also revamped the state school facilities funding program for both new construction and modernization, contained developer fee reform that would become effective only if Proposition 1A, a $9.2 billion state bond measure, passed. With Proposition 1A's passage on November 3, 1998, the landscape of developer fees in California was significantly affected.

S.B. 50 amended Government Code Section 65995, subdivision (a), to provide that only those fees expressly authorized by Education Code Section 17620 (discussed below) or Government Code Sections 65970, et seq., may be levied or imposed in connection with or made conditions of any legislative or adjudicative act by a local agency involving planning, use, or development of real property. Subdivision (h) of section 65995 declares that the payment of the development fees authorized by Education Code Section 17620 constitutes "full and complete mitigation of the impacts of any legislative or adjudicative act on the provision of adequate school facilities." Section 65995, subdivision (i), states that an agency is precluded from denying or refusing to approve a legislative or adjudicative act involving development "on the basis of a person's refusal to provide school facilities mitigation that exceeds the amounts authorized [by S.B. 50]."

S.B. 50 thus attempts to limit the ability of a city or county to deny development approvals on the basis of inadequate school facilities, whether under CEQA or otherwise. One school of thought is that S.B. 50's limitations on a city or county's police powers is unconstitutional. This question has not been litigated to date.

Under S.B. 50, school districts may continue to levy the current statutory fee per square foot of residential development, so long as sufficient justification exists to support that fee. This fee is commonly referred to as the "Level 1" fee. Commercial Fees are not directly affected by S.B. 50.

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For school districts that meet certain criteria, a "Level 2" fee may be imposed that can be higher than the Level 1 fee. The Level 2 fee is based on a specific formula that must be applied, as described more fully in this handbook. In concept, Level 2 fees are the equivalent of what the state assumes will total 50% of the cost of housing students from new development.

As S.B. 50 was originally written, at the time that the State Allocation Board certifies that state funding will no longer be available for apportionment, school districts that are eligible for Level 2 fees may also be eligible for "Level 3" fees. When state funding again becomes available, however, the difference between the Level 2 and Level 3 fees must be refunded either to the state or to the developers. Level 3 fees are assumed by the State to be the equivalent of 100% of the cost of school facilities for new development (school districts commonly experience that the state assumption regarding the cost of facilities is below the actual local cost).

When the State Allocation Board began to apply the "priority point system" to school facility program grants in 2002, disputes arose as to whether state funding was "no longer available" so as to trigger level 3 fees. The State Allocation Board took the position that the Level 3 fees were not triggered. With the passage of the next statewide bond measure, Proposition 47, in 2002, Government Code section 65995.7 was amended so as to disallow Level 3 fees until the 2004 general election. In the 2004 election, the voters approved Proposition 55, a $12.3 billion school facilities bond, followed by approval of an additional $10.4 billion for school facilities in 2006. For several years, this infusion of state funding put off any possible trigger for Level 3 fees. During the statewide economic crisis of 2008 and 2009, school facility funds were frozen due in part to the State's inability to sell bonds. Despite this freeze, the State Allocation Board remained unsympathetic to the notion that Level 3 fees might be triggered. As the State more recently again was able to sell bonds, the remaining bond funds quickly moved towards depletion.

Government Code section 65995.7 was again amended in June of 2012 to make the authorization for Level 3 fees inoperative through December 31, 2014, regardless of the status of state funding, except under two circumstances. First, if a statewide school facilities bond passed before December 31, 2014, the section would become inoperative upon certification of the election in which the voters approved the bond. Second, if a statewide school facilities bond had not been placed on the ballot for the November 4, 2014, statewide general election by August 31, 2014, the section would again become operative on September 1, 2014. The 2012 amendment was intended to help stimulate development during the ongoing fiscal crisis in California. Since a statewide facilities bond was not placed on the ballot within the required timeline, the suspension on collecting Level 3 fees was lifted on September 1, 2014.

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On May 25, 2016, the State Allocation Board (SAB) took the unprecedented step of determining that state funding is no longer available for apportionment for school facilities, opening the door to Level 3 fees. The following day, the California Building Industry Association (CBIA) sought and received a preliminary injunction against implementation of the increased fees. On August 22, 2016, the trial court judge denied CBIA's request for an injunction. This matter then worked its way through the courts for several months. Finally, on November 1, 2016, the Court of Appeal denied CBIA's request to continue blocking enforcement of the SAB's action, and the SAB immediately fulfilled its obligation to inform the Legislature of its earlier finding that state funds for new construction are no longer "available." This opened the door for school districts to seek Level 3 fees. However, on November 8, 2016, voters passed Proposition 51, a $9 billion statewide school facilities bond measure, and on September 6, 2017, the SAB announced that it had begun apportioning funds. This has raised numerous questions as to whether Level 3 fees can in fact be imposed. Districts seeking to impose Level 3 fees should consult with their legal counsel regarding the ability to levy such fees.

As the foregoing discussion demonstrates, the law regarding developer fees continues to evolve. As it does, Lozano Smith will continue to provide updates to this handbook.

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II. TYPES OF FEES

A. LEVEL 1 FEES.

Level 1 fees provide a statutorily-designated level of fees that districts may assess if they are able to support them through a justification study. Level 1 fees are subject to an inflationary increase to be authorized by the State Allocation Board ("SAB'") in every even year.

1. Amount Assessable. Level 1 fees may be assessed against both residential and commercial construction. The current SAB approved fee amounts are:

    a) $4.79 per square foot of residential construction.

    b) $0.78 per square foot of commercial construction.

(Gov. Code § 65995, fees effective 2/23/22.)

2. Summary of Requirements

    a) Follow the procedure in Section Two of this handbook.

    b) Prepare Fee Justification Study or update existing study.

(Ed. Code § 17621. Gov. Code § 65970. et seq.)

B. LEVEL 2 FEES.

For many school districts, Level 2 fees may replace the informal procedures developed under CEQA and the *Mira, Hart,* and *Murrieta* line of cases for levying fees or other mitigation beyond the SAB approved Level 1 fee.

Level 2 still permits the assessment of greater fees than Level 1, but imposes new prerequisites for qualifying for the higher fees that differ from those that existed prior to S.B. 50. Unlike Level 1 fees, there is no specific SAB authorized amount. Instead, the fee is determined by application of a formula, as set forth below.

1. Amount Assessable

    a) Amount established by statutory formula, intended to be equal to 50% of construction costs and 50% of site development costs.

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b) Level 2 fees may only be assessed against residential development; commercial development remains subject to Level 1 fees.

c) The maximum charge per square foot that may be levied under Level 2 is calculated in a School Facilities Needs Analysis (see below) pursuant to the following formula:

1) Multiply the number of projected unhoused pupils by the standard school facilities program grant for new construction, which is based upon grade level:

Elementary school students $14,623

Middle school students $15,466

High school students $19,679

2) Add all site acquisition and development costs. Site acquisition costs cannot exceed half the amount determined by multiplying the acreage deemed necessary by the estimated cost, and development costs cannot exceed the amount that would be funded by the SAB.

3) Subtract local funds (including those obtained from either residential or commercial sources) dedicated by the governing board to facilities necessitated by new construction.

4) Divide the subtotal by the projected total square footage of assessable space of residential units anticipated to be constructed within the next five years.

2. Summary of Requirements

a) Follow the procedure detailed in the Section Two of this handbook. (Gov Code § 65995.5, et seq.)

b) District must make a timely application to the SAB for new construction funding for which the district is deemed eligible pursuant to Education Code sections 17071.10, et seq. and 17071.75, et seq.

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Note: An application is deemed eligible for funding if the SAB fails to notify the district otherwise within 120 days of SAB's receipt of the application. (Gov. Code § 65995.5, subd. (b) (1).)

c) Adopt a School Facilities Needs Analysis pursuant to Government Code section 65995.6. (Gov. Code § 65995.5, subd. (b) (2)).)

d) Satisfy at least two of the following four requirements (Gov. Code § 65995.5, subd. (b) (3)):

1) Substantial enrollment in multi-track year-round (MTYRE) schedule. This requirement can be satisfied if any of the following exists:

30% or more K-6 enrollment in high school attendance area on MTYRE; or

40% or more K-12 enrollment within boundaries of high school attendance area on MTYRE.

2) The district has placed a local bond measure on the ballot within the last four years which received at least one vote more than 50%.

3) The district has issued debt or incurred obligations for capital outlay in an amount equivalent to 30% of the district's local bonding capacity.

Note: the 30% requirement applies to obligations approved by landowner vote after November 4, 1998; if the obligations were approved by landowner vote before November 4, 1998, the district need only have incurred obligations equivalent to 15% of its bonding capacity.

4) At least 20% of the teaching stations within the district are relocatable classrooms.

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C. LEVEL 3 FEES

Level 3 fees enable school districts that are eligible for Level 2 fees to qualify for additional developer fees in the event that state funding is no longer available. Effective September 1, 2014, the suspension on school districts' authority to collect Level 3 fees was lifted. On May 25, 2016, the SAB determined that Level 3 fees were no longer available for apportionment for school facilities. Immediately after that determination was made, the CBIA sued, and the matter worked its way through the courts for several months. Late in 2016, the Court of Appeal denied CBIA's request to continue blocking enforcement of the SAB's action, and the SAB immediately fulfilled its obligation to inform the Legislature of its earlier finding that state funds for new construction are no longer "available." This opened the door for school districts to seek Level 3 fees. However, on November 8, 2016, voters passed Proposition 51, a $9 billion statewide school facilities bond measure, and on September 6, 2017, the State announced it had begun apportioning funds. This has raised questions as to whether Level 3 fees could in fact be imposed. Districts seeking to impose Level 3 fees should consult with their legal counsel regarding the ability to levy such fees, and how to go about doing so.

1. Amount Assessable

    a) 100% of allowable construction costs. (Gov. Code § 65995.7.)

    b) Level 3 fees may only be levied upon residential developments.

2. Summary of Requirements

    a) State funding must no longer be available because the SAB is not approving apportionments for new construction due to a lack of funds, as determined by SAB notice to the Senate and Assembly.

    (Gov Code § 65995.7.)

    b) **[RESERVED]**

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III. ADOPTING OR INCREASING LEVEL 1 FEES

A. TIMELINE AND CHECKLIST

21 Days Prior to Hearing (approx.)

- ☐ Optional: Courtesy letter to developers

14 Days Prior to Hearing

- ☐ District must mail notice to everyone who has requested written notice of a meeting to increase or adopt fees.

10 Days Prior to Hearing

- ☐ District must publish notice of hearing in at least one newspaper.
- ☐ District must have justification study available for public review.

4 Days Prior to Hearing

- ☐ District must publish second notice of hearing in at least one newspaper.

At least 72 Hours Prior to Hearing

- ☐ Post Board Meeting and Public Hearing Agenda.

Hearing Date

- ☐ Hold hearing at regular meeting.
- ☐ Adopt resolution adopting or increasing fees.

Immediately After Hearing

- ☐ Notify local city and county agencies of new fees.
- ☐ Optional: Send courtesy letter to developers regarding new fee rate.
- ☐ Optional: File notice of CEQA exemption with county clerk to be posted by the clerk.

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60 Days After Hearing

- Fee becomes effective (may have been in effect immediately upon adoption if adopted as an urgency measure).

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B. FEE JUSTIFICATION STUDY.

A study must be completed before any new fees may be imposed. Level 1 fees require an analysis of justification supporting the fees, most commonly done through a Fee Justification Study, pursuant to Gov. Code § 66000, et seq.

1. Studies for all types of developments must show all of the following:

    a) Statutory Requirements:

        1) The purpose of the fee.

        2) How there is a reasonable relationship or "nexus" between the use of the fees and the types of developments on which the fees are imposed.

        3) How there is a reasonable relationship or "nexus" between the need for the facilities and the types of developments upon which the fees are imposed.

        4) How there is a reasonable relationship or "nexus" between the amount of the fees and the cost of the facilities that are attributable to the developments on which the fees are imposed. (Gov. Code § 66001.)

    b) Court-created Requirements:

        1) Under case law, fee studies may need to provide information regarding what types of school facilities may be needed to accommodate students generated by development. This is a question for which consultation with legal counsel may be appropriate.

Note: While district staff can prepare the Fee Justification Study, districts often retain outside consultants who are familiar with the preparation of such studies, and further are able to offer particular expertise in areas such as demographic analysis. One advantage to retaining expert consultants is that they can serve as a tremendous resource, and can also serve as expert witnesses in the event of a challenge to the Fee Justification Study.

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2. Additional Requirements for Commercial & Industrial Development

a) Additional analysis is required for commercial and industrial development. The analysis, which may be included in a Fee Justification Study, must determine how the influx of new employees brought about by the new development will impact school facilities and how the fee is reasonably related to that impact.

b) Employee generation estimates must be based on commercial and industrial factors within the district.

c) These categories may include any type of development relevant to the district, such as office, light industrial, heavy industrial, retail, transportation, research and development, communications and utilities, and warehouse.

d) The findings must be made on either an individual project basis or on the basis of categories of commercial or industrial development.

e) Employee generation factors may be based on the January 1990 edition of "San Diego Traffic Generators", published by the San Diego Association of Governments.

(Ed. Code § 17621, subd. (e).)

3. Additional Requirements for Greenhouses & Other Agricultural Structures

a) Fees on these structures require the district to make both of the following specific findings, supported by substantial evidence:

1) The amount of the proposed fees and the location of the land, if any, to be dedicated, bear a reasonable relationship to, and are limited to, the needs of the community for school facilities caused by the development.

2) The amount of the proposed fees does not exceed the estimated reasonable cost of providing for the construction or reconstruction of the school facilities necessitated by the development projects from which the fees are collected.

(Ed. Code §17622.)

b) **[RESERVED]**

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C. IDENTIFICATION OF PROJECT.

At the time the fee is imposed, the district must identify the public improvement the fee will finance. (Gov. Code §§ 66001, 66006.) The district can later expend the fees only for the identified purposes. (Gov. Code § 66008.)

1. This identification may be made by reference to any of the following types of construction schedule or plan:

   a) A formal capital facilities plan which indicates the approximate location, size, time of availability, and estimated cost of all facilities to be financed with the fees.

      This formal plan requires annual board action on updates and specified notice of public hearings. (Gov. Code § 66002.)

   b) Leroy Greene documentation (i.e., the five-year plan for construction and rehabilitation of school facilities required by Ed. Code § 17017.5, subd. (c)).

      A construction schedule or plan designed to fit the specific circumstances in the district.

      (Gov. Code § 66007, subd. (f).)

2. As a practical matter, some school districts do not yet have formal or specific construction plans at the outset of collecting fees. While, as a general rule, more specificity is desirable, it may suffice to identify general needs (i.e., expansion of existing facilities, acquisition of property for new school facilities, etc.)

D. REVIEW ACCOUNTING PROCEDURES.

1. Check accounting procedures. Establish a separate account for capital facilities if one does not already exist.

2. Most districts already have the separate capital facilities account or fund required by Government Code section 66006. Fees should be deposited only in this restricted account, and used only for the purposes authorized.

3. Because Level 1, 2, and 3 fees are each subject to different restrictions and conditions, it may be advisable to keep each type of fee in a separate account.

   (Gov. Code §§ 66006, 66007.)

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E. BEFORE THE BOARD MEETING.

1. If desired, write a courtesy letter to developers informing them of proposed action at least approximately three weeks before hearing. The courtesy letter can include the same information as is provided to persons who have requested notice. (See below and sample letter, Form L1-l.)

2. Finalize Fee Justification Study (or comparable analysis). Report should be final at least 2 weeks before the hearing, and must be complete and available for public review at least 10 days before the hearing.

3. Schedule hearing to be held as part of *regular* board meeting.

   (Ed. Code § 17621. Gov. Code §§ 54986, 66016, 66017 subd. (a), and 66018.)

4. Provide Notice of the Hearing

   a) The district must provide written notice to any person who files a written request with the district for notice of meetings on fees, and may charge a reasonable amount for providing the notice. Such written request is valid for one year, and is renewable in writing annually if the request for renewal is made by April 1 of each year.

   b) The notice must include the time and place of the meeting, a general explanation of the fees, and a statement that the findings are available for public inspection. (See sample notice, Form L1-2.)

   c) The deadline for providing this specific notice is 14 days before the hearing.

   (Gov. Code §§ 66016, 66017.)

5. Publish Notice of the Hearing

   a) Notice of the meeting where the new or increased fees will be adopted must be published twice prior to the hearing, with at least five days intervening between publication dates. (See sample notice, Form L1-2.)

   b) The first date of publication must be at least ten (10) days prior to the hearing.

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c) Publication must be in a newspaper that is published at least weekly.

(Gov. Code §§ 66018, 6062a.)

6. Make Data Available to Public

a) The district must make available to the public data indicating the amount of cost or estimated cost required to provide the facilities and the revenue sources anticipated to provide the facilities, including general fund revenues. This data may be provided as part of a Fee Justification Study.

b) This data must be available to the public at least 10 days before the hearing.

(Gov. Code §§ 66016, 66017.)

7. Agendize the Hearing

a) Adoption of the fees must be listed as a possible action item on the board agenda, so that the board may adopt or increase fees after hearing. (See sample agenda language, Form Ll-3.)

b) The action item must be listed on the agenda for the regular board meeting at least 72 hours before the meeting.

(Gov. Code § 54954.2.)

F. AT THE BOARD MEETING.

1. Hold Public Hearing(s)

Note: If the board does not take action after the first hearing, it is recommended that the district seek the advice of legal counsel regarding mailing and publication requirements before any further hearing or meeting.

(Gov. Code §§ 66016, 66017, and 66018.)

2. Adopt or Increase Fees by Resolution

a) Fees must be adopted or increased by resolution. (Ed. Code § 17621.) (See sample resolution, Forms L1-4, L1-6, and L1-7.)

OPTIONAL: Adopt resolution immediately implementing new fee as an "Urgency Measure." Districts may wish to consult with legal counsel to determine if an urgency measure is warranted.

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b) Passage of an urgency resolution requires a four-fifths majority vote and explicit identification of why immediate imposition is required to protect the public health, safety and welfare. (See sample urgency resolution, Form L 1-5.)

c) An urgency resolution imposing or increasing developer fees can remain effective for only 30 days. (See below re: effective date of fees.)

(Ed. Code § 17621, Gov. Code § 66017.)

d) School facilities fees are exempt from the California Environmental Quality Act ("CEQA"). The inclusion of specific language in the resolution regarding the fees exemption is not required. However, including such language can assist in limiting meritless challenges.

(Ed. Code § 17621; Gov. Code § 66017; Cal. Code Regs., tit. 14 § 15062.)

G. AFTER THE BOARD MEETING.

1. Notify Local Jurisdictions of Adoption of or Increase in Fees

a) Notice must be given to all cities and counties which issue building permits within the district as soon as possible after the board adopts or increases fees.

b) The notice must include a copy of the boundaries of the area subject to the fees, and should indicate that fees are to be collected prior to issuance of building permits. (See sample notice, Form LI-II.)

(Ed. Code §§ 17620,17621, Gov. Code § 66007.)

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2. Notify County Clerk of CEQA Exemption

    a) As soon as possible after adopting fees, file the notice of exemption form (Form Ll-9 & Ll-10) with the County Clerk. The Clerk must post the notice for 30 days. (Cal. Code Regs., Tit. 14 § 15062.)

    b) **[RESERVED]**

3. Establish or Revise Administrative Procedures

    a) Administrative procedures must be established before the effective date of fees.

    b) Administrative procedures must include an appeal procedure for commercial/industrial developers who believe a particular development should be exempt from fees. (See Section Three "Collecting and Using Developer Fees", and sample Board Regulation, Form Ll-13.)

    (Ed. Code § 17621; Gov. Code §§ 65995.6 and 66017.)

    Note: There is no parallel requirement for appeal procedures regarding residential fees.

H. EFFECTIVE DATE OF FEES.

1. Level 1 fees are effective 60 days after their adoption or increase, unless the Board adopts the fees as an urgency measure.

2. Level 1 fee increases adopted as urgency measures are effective immediately, but remain in force for only 30 days, upon which only two 30 day extensions are allowed. For this reason, school districts may wish to adopt the Level 1 Fee and the urgency measure simultaneously, thus allowing for two 30 day urgency periods, after which the 60 day period will also have run leaving the new fee in place.

3. 30 day extensions of an urgency ordinance must be Board approved, following the same notice and hearing provisions as for the initial urgency measure.

    (Ed. Code § 17621.)

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I. REDUCING THE AMOUNT OF FEES TO BE COLLECTED

The statutes expressly require notice and the above-described procedure where school districts are "adopting" or "increasing" fees, but are silent when it comes to reducing a fee, which is less common.

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IV. ADOPTING LEVEL 2 AND 3 FEES

A. TIMELINE AND CHECKLIST.

45 Days Prior to Hearing

- ☐ Last day for members of public to submit written request for a copy of the Needs Analysis.
- ☐ Last day for information to be made available to local city *and/or* county in order for district to preserve rights to override local zoning ordinances.

30 Days Prior to Hearing

- ☐ District must publish notice of hearing in at least one newspaper.
- ☐ District must make School Facilities Needs Analysis ("Needs Analysis") available for public review at a designated location.
- ☐ District must mail Needs Analysis to everyone who has requested a copy more than 15 days previously.
- ☐ Optional: Courtesy letter to developers.

Hearing Date

- ☐ Hold hearing.
- ☐ Following or concurrent with adoption of the Needs Analysis, adopt resolution imposing fees.
- ☐ Responses to written comments regarding Needs Analysis should be provided by this date.

Immediately After Hearing

- ☐ Fees become effective.
- ☐ Notify local city and county agencies of new fees.
- ☐ Optional: Send courtesy letter to developers regarding new fee rate.
- ☐ Optional: File notice of CEQA exemption with county clerk and post same.

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B. SCHOOL FACILITIES NEEDS ANALYSIS.

Level 2 and 3 fees require a Needs Analysis pursuant to Government Code section 65995.6. As discussed in Section 1, above, specific criteria must be met for a school district to authorize Level 2 fees. Specifically, a school district must satisfy at least **two** of the following four requirements:

1) Substantial enrollment in multi-track year-round (MTYRE) schedule. This requirement can be satisfied if any of the following exists:

   30% or more K-6 enrollment in high school attendance area on MTYRE; or

   40% or more K-12 enrollment within boundaries of high school attendance area on MTYRE.

2) The district has placed a local bond measure on the ballot within the last four years which received greater than 50% of the vote.

3) The district has issued debt or incurred obligations for capital outlay in an amount equivalent to 30% of the district's local bonding capacity.

   Note: the 30% requirement applies to obligations approved by landowner vote after November 4, 1998; if the obligations were approved by landowner vote before November 4, 1998, the district need only have incurred obligations equivalent to 15% of its bonding capacity.

4) At least 20% of the teaching stations within the district are relocatable classrooms.

The above criteria are generally addressed in the Needs Analysis. A Fee Justification Study and a Needs Analysis may be combined in the same document, so long as the document meets all of the requirements for both studies. There may be a number of reasons to continue preparing Fee Justification Studies even if higher fees may be justified through a Needs Analysis, particularly to protect the school district in the event that S.B. 50 is ever repealed or found to be unlawful.

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1. Requirements

   a) The Needs Analysis must include the following: (Gov. Code § 65995.6.)

      1) Projection of the number of unhoused students generated by new residential units in each category of pupil (elementary, middle, and high school), based upon historical student generation rates of similar residential units constructed during the previous five years.

      2) Calculation of existing capacity pursuant to Education Code section 17071.25.

      3) Identify and consider:

         Any surplus property owned by the district that can be used as a school or could be sold to finance school facilities;

         The extent to which projected enrollment growth can be accommodated by existing excess capacity; and

         Other local sources of income that could be used to finance school construction.

      4) Identify school facilities to be constructed to accommodate new growth.

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5) Explain the reasonable relationship between the fees and the impact of new residential development.

Note: For the same reasons described above in relation to Level 1 fees, it may be advisable to have outside consultants prepare the Needs Analysis.

b) **(RESERVED]**

2. **[RESERVED]**

C. REVIEW ACCOUNTING PROCEDURES.

1. Check your accounting procedures or capital facilities fund. Establish a separate account for capital facilities if one does not already exist.

2. Most districts already have the separate capital facilities account or fund required by Government Code section 66006. Fees should be deposited only in this restricted account, and used only for the purposes authorized.

3. Because Level 1, 2, and 3 fees are each subject to different restrictions and conditions, each type of fee should be kept in a separate account.

(Gov. Code §§ 66006, 66007.)

D. BEFORE THE BOARD MEETING.

Procedure for Adopting a Needs Analysis (Gov. Code § 65995.6.)

1. If desired, write a courtesy letter to developers informing them of proposed action. The courtesy letter can include the same information as is provided to persons who requested the Needs Analysis. (See below and sample letter, Form L2-1.)

2. Provide and Publish Notice of the Hearing

a) Publish notice of time and place of public hearing, including location and procedure for requesting a copy of the Needs Analysis, in a general circulation newspaper at least once no less than 30 days before the public hearing. (See sample notice, Form L2-2.)

b) Mail analysis at least 30 days before the public hearing to anybody who has made a written request for the analysis at least 45 days before the hearing.

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c) Respond (orally or in writing) to any comments made regarding the Needs Analysis before adopting the analysis.

Note: It appears that the hearing does not need to be held at a regularly scheduled Board meeting as with Level 1 Fees.

(Gov. Code § 65995.6 subd. (h).)

3. Make Data Available to Public

a) Make the final Needs Analysis available for public review and comment at least 30 days before the public meeting. Additionally, the school district must provide a copy of the final Needs Analysis to local planning authorities during the 30 day comment period. (Government Code Section 65995.6)

Under a separate statutory scheme, relevant information regarding the proposed expansion or construction of school facilities, including the proposed Needs Analysis if available, must also be made available to local planning authorities 45 days prior to "completion" of the Needs Analysis (Government Code Section 65352.2). Thus, it may be appropriate to provide local planning authorities not only the 30 day notice required by Government Code Section 65995.6, but an additional 15 prior to that, to comply with Section 65352.2. This effectively creates a 45 day notice requirement for planning agencies. Failure to give notice to the planning agency 45 days in advance should not invalidate the Needs Analysis, but it could impact the school district's ability to override local zoning ordinances under the terms of Government Code Section 53094. (See Government Code Section 53094 (b).) School districts may wish to seek legal advice regarding these specific timing issues.

4. Agendize the Public Hearing

a) Adoption of the fees must be listed as a possible action item on the board agenda, so that the board may adopt fees after hearing. (See sample agenda language. Form L2-3.)

b) The action item must be listed on the agenda at least 72 hours before the meeting.

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E. AT THE BOARD MEETING.

1. Hold Public Hearing(s)

2. Adopt by Resolution

a. Fees must be adopted by a resolution that also adopts the Needs Analysis. (See sample resolution, Form L2-4.)

(Gov. Code § 65995.6, subd. (f).)

b. **[RESERVED]**

Note: Elementary or high school districts that have fee splitting agreements may need to tailor the language of their resolution and may wish to consult with legal counsel.

c. School facilities fees are exempt from the California Environmental Quality Act ("CEQA"). The inclusion of specific language in the resolution regarding the fee exemption is not required. However, including such language can assist in limiting meritless challenges.

(Gov. Code § 65995.6, subd. (g).)

d. **[RESERVED]**

F. AFTER THE BOARD MEETING.

1. Notify Local Jurisdictions of Adoption of Fees

a. Notice must be given to all cities and counties which issue building permits within the district as soon as possible after the board adopts fees.

b. The notice must include a copy of the boundaries of the area subject to the fees and should indicate that fees are to be collected prior to issuance of building permits. (See sample notice, Form L2-8.)

(Ed. Code § 17621, subd. (c).)

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2. Notify County Clerk of CEQA Exemption

    a. As soon as possible after adopting fees, mail the notice of exemption form (Form L2-6 and L2-7) to the County Clerk, and post the notice at the District for 30 days. (Cal. Code Regs., Tit. 14 § 15062.)

    b. **[RESERVED]**

3. Set up or Revise Administrative Procedures

    a. Administrative procedures should be established before the effective date of fees.

    b. **[RESERVED]**

G. EFFECTIVE DATE OF LEVEL 2 AND 3 FEES.

1. Level 2 and 3 fees are effective immediately upon adoption, and are valid for one year.

Note: Unlike Level 1 fees, Level 2 and 3 fees expire one year from adoption, requiring annual updates to the Needs Analysis and renewed adoption of fees. By contrast, Level 1 fees may be "increased" every two years based on the State Allocation Board inflation adjustment.

(Gov. Code § 65995.6, subd. (f).)

2. **[RESERVED]**

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V. LIMITATIONS UPON LEVYING AND EXPENDING FEES

A. ISSUES CONCERNING PARTICULAR TYPES OF DEVELOPMENT

1. Hotels

a) Hotels, inns, motels, tourist homes, and other types of lodging for which the maximum term of occupancy for guests does not exceed 30 days are commercial developments, and pay commercial fees accordingly.

However, a "residential hotel," as defined by Health and Safety Code section 50519, subdivision (b)(1), is a residential development.

(Gov. Code § 65995, subd. (d).)

2. Mobile Homes

a) Residential fees may generally be collected on mobile homes only if both of the following conditions are met:

1) The mobile home is new to the district; and

2) The pad is new.

b) No fees may be collected on:

1) Replacement of a mobile home destroyed or damaged by fire or any natural disaster.

2) Accessory structures.

3) Conversion of a rental park to any form of resident ownership.

c) If a mobile home is replaced by a permanent structure, the district must give the developer credit for any fee paid on the mobile home toward the fee levied upon the permanent structure.

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d) If the owner of a mobile home otherwise subject to a developer fee is both 55 or more years old and qualifies for low income, the district must either waive the fee or allow the owner to pay in installments over a period of at least 36 months.

(Ed. Code § 17625)

3. Senior Citizen Housing

a) Generally, qualified senior citizen housing, although residential development, may be charged fees only as a commercial/industrial development.

b) However, regular residential fees may later be charged if the development is converted to another type of use (although districts generally have only one opportunity to collect fees, a specific exception exists for this situation).

c) There are four types of senior citizen housing which qualify for this special treatment:

1) The projects described in Civil Code section 51.3 (one resident at least age 55, plus other restrictions)

2) A "residential care facility for the elderly," as described in Health and Safety Code section 1569.2, subdivisions (o) and (p) (at least age 60, plus other restrictions)

3) A "multilevel facility for the elderly," as described in Government Code section 15432, subdivision (d) (9) (age 62 or older, plus other restrictions)

4) A mobile home development limited to older persons, as described in the Federal Fair Housing Amendments of 1988 (age varies by program; generally 55 or 62)

d) Residences which do not meet these standards should be charged regular residential rates, even if the initial owner happens to be a senior citizen.

(Gov. Code §§ 65995.1, 65995.2)

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4. Greenhouses/Enclosed Agricultural Spaces

    a) Districts must meet special standards for imposing commercial/industrial fees on greenhouses and other covered and enclosed agricultural spaces.

    b) The district also generally may not charge fees on these agricultural structures if employees of the commercial enterprise will be housed in residences for which a fee has already been paid or if the number of employees is not increased as a result of the development.

    (Ed. Code § 17622.)

5. Replacement Projects

    a) Districts may impose fees upon replacement projects. Such development is "new" construction and not automatically exempt under Education Code section 17620(a)(1)(C)(i).

    b) The District's Impact Study must demonstrate a reasonable relationship between the fee and the use to which it will be put. For example, where 56 multi-family units are replaced by 38 new single family units, the study should consider the net effect of this type of change. This does not necessarily mean that the number of demolished units should be subtracted from the number of new units. Consideration of when and how replacement units must pay fees is highly fact specific, and warrants consultation with fee consultants and legal counsel.

    c) The Impact Study may consider the impact of replacement construction as a class of development rather than on a project-by-project basis. The District need not assess the impact of each such project individually, but can instead consider the type of projects generally.

6. Consideration of Specific Projects

    a) Districts need not consider specific projects when establishing a nexus between developer fees and a development project. The District's calculus is limited to the general type of project at issue (e.g., residential, commercial, or industrial). Recent case law has devoted a significant amount of attention to issues related to the "type" of development. Districts experiencing significant amounts of a particular type of development may wish to consult with legal counsel regarding the imposition of fees on such development.

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B. STATUTORY EXEMPTIONS FROM FEES

1. The following types of construction are exempt from developer fees to the extent described below:

   a) Residential additions of 500 square feet or less. The calculation of the size of the addition must take into account any decrease in existing space that results from the construction. (If the addition exceeds 500 square feet, fees are charged on the entire addition.) (Ed. Code § 17620, subd. (a)(1)(C)(i).)

      i. Note: There is a separate statute in the Government Code governing the imposition of fees on "Accessory Dwelling Units" under 750 square feet. Government Code section 65852.2, which went into effect on January 1, 2020, exempts the construction of such structures from imposition of developer fees by certain types of local agencies. On its face, Government Code section 65852.2 appears not to apply to school districts. However, this is an issue for which consultation with legal counsel may be appropriate.

   b) Modification or expansion of existing residential housing if the purpose of such modification is to increase access for a severely and permanently disabled person. (Ed. Code § 17620, subd. (a)(1)(C)(ii).)

   c) Reconstruction of a structure damaged or destroyed by fire, earthquake, landslide, mudslide, flood, tidal wave, etc., where the replacement structure is equivalent to the original structure. However, the district may charge fees for any net increase in square footage that arises from the new construction. (Ed. Code § 17626.)

      Note: The legislature's specification of these types of reconstructions strongly suggests that other types of reconstruction, such as voluntarily tearing down a building and building a new one in the same place, are not exempt from imposition of fees. This is a question for which consultation with legal counsel may be appropriate.

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d) Facilities used exclusively for religious purposes and which are thereby exempt from property taxes. (Gov. Code § 65995, subd. (d).)

e) Facilities used exclusively as a private full-time day school (including only grades between K-12). (Gov. Code § 65995, subd. (d).)

f) Facilities owned and occupied by any federal, state, or local government agency. (Gov. Code § 65995, subd. (d).)

g) State-owned housing for migrant farm workers which is subject to a contract ensuring compliance with Section 50710, et seq. of the Health and Safety Code.

2. **[RESERVED]**

C. AGREEMENTS BY NON-UNIFIED DISTRICTS

1. If the assessing district is not unified, an overlapping district is also collecting fees, and the total amount collected is greater than the permitted Level 1 fee, then the districts must enter into an agreement specifying distribution of fees.

2. A copy of the agreement must be sent to the State Allocation Board. (See sample agreement.)

(Ed. Code § 17623.)

D. REFUNDS FOR UNUSED PERMITS

1. The district must refund any fees collected if the developer's building permit expires without commencement of construction.

2. However, the district may deduct administrative costs incurred in collecting and repaying fee.

(Ed. Code § 17624.)

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E. PERMISSIBLE USES OF FEES

1. Developer fees may be used for:

   a) Construction or reconstruction of school facilities, (Ed. Code § 17620, subd. (a).)

   b) Costs associated with conducting any study, finding, needs analysis or determination required as part of the process for adopting the fee; (Ed. Code § 17620, subd. (a)(5); Gov. Code § 65995.5, subd. (f).)

   c) Administering the fee, for which 3% of the fees collected may be expended; (Ed. Code § 17620. subd. (a)(5); Gov. Code § 65995.5, subd. (f).)

   d) Costs associated with conducting the meeting(s) required for levying a new fee or increasing an existing fee may be recovered by the district from the fee charged. (Gov. Code § 66016, subd. (c).)

   e) Costs attributable to the increased demand for public facilities reasonably related to the development in order to (1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with a general plan (this appears to include compliance with a Facilities Master Plan or similar document). (Gov. Code § 66001, subd. (g).)

2. **[RESERVED]**

F. IMPERMISSIBLE USES OF FEES

1. Developer fees generally may not be used for the following:

   a) The regular maintenance or routine repair of school buildings or facilities;

   b) The inspection, sampling, analysis, encapsulation, or removal of asbestos-containing materials, except where incidental to a construction or reconstruction project; or

   c) The purposes of deferred maintenance described in Education Code section 17582.

   (Ed. Code § 17620, subd. (a) (3).)

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2. **[RESERVED]**

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VI. PROTEST AND APPEAL OF FEES

A. PROTEST OF DEVELOPER FEES

1. Who May Protest

   a) Any party, whether developing commercially or residentially, upon whom developer fees have been imposed, may protest the imposition of those fees. (Ed. Code § 17621, subd. (d).)

   b) A "protest" of fee payment does not necessarily give the developer a right of appeal (see below). Rather, it serves primarily to preserve the developer's rights to sue in order to challenge the fee.

2. Time For Protest

   a) Local agencies are required, at the time of imposition of the fees, to provide developers with written notice of the amount of the fees and notification that a 90-day period in which the applicant may protest has begun. A protest must be filed within 90 days of delivery of such notice to the developer. (Gov. Code § 66020, subd. (d).) Because the 90-day time limit may not begin until notice is delivered, it is very important to provide such notice. If the 90-day notice is given, then the developer must pay the fees under protest, and then must file any lawsuit to challenge imposition of the fees within 180 days after delivery of the notice.

   Note: This may most easily be accomplished by adding language to the following effect to the developer fee compliance forms:

   > You are hereby notified that you have ninety (90) days from the date of payment of the fees identified herein to file a protest against the imposition of these fees pursuant to Government Code section 66020.

   (See sample certifications of compliance, Forms L1-14 and L2-9.)

   b) **[RESERVED]**

3. Protest Requirements

   a) In order to protest, a party must:

      1) Tender any required payment in full, or provide satisfactory evidence that arrangements have been made to pay the fee when it comes due; and

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2) Serve written notice on the district, including statements that:

A) The required payment has been tendered or will be tendered when due; and

B) Any conditions imposed by the district are provided for or satisfied, under protest.

3) Inform the governing body of the factual elements of the dispute and the legal theory forming the basis for the protest.

(Gov. Code § 66020, subd. (a).)

b) A party who has protested may file a legal action opposing the imposition of the fees within 180 days after delivery of the notice of the fees. If the party does not do so, it is completely barred from any action, proceeding, or defense contesting the validity or reasonableness of the imposition.

(Gov. Code § 66020, subd. (d).)

Note: If a party successfully sues a school district in an action brought within 120 days of the enaction or resolution establishing or modifying a fee, and the resolution authorizing the fees is invalidated, payments made according to the invalidated fee must be refunded to all parties who tendered payment under protest between 90 days before the action was filed and the date of judgment.

(Gov. Code § 66020, subd. (f).)

4. Impact of Protest or Approval of Development Project

a) A city or county may not withhold approval of a development project solely because the developer filed a protest against the payment of particular school impact fees. (Gov. Code § 66020, subd. (b).) A city or county may, however, suspend approval of a development until the protest has been withdrawn, the period to file an action has passed without any such filing, or the action is resolved. Such suspension can occur only after the agency has made valid findings that: (1) the construction for which the fees are levied are needed directly because of the specific new development; (2) the construction is required for the public health, safety, and welfare; and (3) the agency has imposed a requirement

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of the construction of the improvements as a condition for the approval of the development.

(Gov. Code § 66020, subd. (c).)

Note: School districts may wish to consult with their local cities and counties and their own legal counsel to determine the applicability of these sections to their circumstances.

b) **[RESERVED]**

B. APPEAL OF DEVELOPER FEES

The board must establish a process by which any commercial or industrial developments upon which a fee is levied may receive a hearing to appeal the fee. (See sample Board Regulation, Form L1-13.) There is no statutory guidance as to the specific process or whether the fee must be appealable to the governing board.

(Ed. Code § 17621, subd. (e) (2).)

Note: Although any type of developer may protest development fees, only commercial or industrial developments have the right to appeal fees. Thus, a school district is not required to have an appeal process for residential fees, although it may adopt one voluntarily.

1. Grounds for Appeal

   a) Statutorily recognized grounds for appeal include, but are not limited to:

      1) The project is inaccurately included within the category to which the fee is to be imposed (i.e., the project is charged fees as if it is an office building when in fact it is a self-storage facility, to which a lower fee may be justified pursuant to the Fee Justification Study); or

      2) The employee generation or pupil generation factors utilized under the applicable category are inaccurate as applied to the project.

   b) The burden of proving that the fee is improper is borne by the party appealing the fee.

2. [RESERVED]

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VII. ACCOUNTING FOR FEES

A. OVERVIEW.

The statutory accounting requirements apply to fees collected by all local agencies, not just school districts. Therefore, some of the accounting requirements ~~do~~ not closely fit the circumstances of school facilities fees.

Nonetheless, it is important to attempt to comply with these requirements; the penalty for noncompliance with the five year accounting requirements can be *a mandatory refund* of all unexpended developer fees. (Gov. Code § 66001, subd. (d).) We recommend that districts consult with qualified fee consultants, accountants and/or legal counsel throughout the accounting process.

B. ACCOUNTING TIMELINE AND CHECKLIST

180 Days From End of Fiscal Year

- ☐ Make accounting information available.

April 1 of Every Year

- ☐ Last day for members of public who had previously filed written requests for notice of meeting to renew notice for another year.

5 Years From Date of Initial Deposit/5 Year Intervals

- ☐ Hold meeting to make findings regarding fees collected in the prior 5 years.

15 Days Prior to Board Meeting

- ☐ Mail notice of time and place of meeting, and address where reporting may be reviewed, to any interested party who has filed a written request for notice.

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- ☐ Make reporting information available to public (the district may publish a notice of availability of the report, although there is no requirement to do so).

Meeting Date

- ☐ At the next regularly scheduled public meeting at least 15 days after the information has been made public, review proposed reporting information before adopting.

- ☐ Adopt resolution affirming reporting information and making necessary findings.

Annual Reporting Must Include

- ☐ A brief description of the type of fee in the account.

- ☐ The amount of the fee.

- ☐ The beginning and ending balance of the account.

- ☐ The amount of the fees collected and the interest earned.

- ☐ An identification of each public improvement on which fees were expended, including the percentage of the cost of the improvement that was funded with fees.

- ☐ The approximate date by which construction of a public improvement will commence if the district determines that sufficient funds have been collected to complete financing on an incomplete improvement.

- ☐ A description of each inter-fund transfer or loan, including the improvement on which the transferred fees will be expended, the date the loan will be repaid, and the loan's interest rate.

- ☐ The amount of any refunds made for fees unexpended and uncommitted after five years.

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Five Year Reporting Must Include

- The purpose to which the fee is to be put.
- A demonstration of a reasonable relationship between the fee and the purpose for which it is charged.
- An identification of all sources and amounts of funding anticipated to complete financing of incomplete improvements.
- The approximate dates on which the funding for incomplete improvements is expected to be deposited into the appropriate account or fund.

C. DEPOSIT OF FUNDS

1. All funds received from school impact fees must be deposited in a separate account or fund in a manner to avoid any commingling of the fees with other revenues and funds of the agency. (Gov. Code § 66006.)
2. **[RESERVED]**

D. ANNUAL ACCOUNTING

1. Within 180 days of the end of the district's fiscal year, the district must make public a detailed report concerning each account containing funds received from development fees.
2. The accounting should include:
   a) A brief description of the type of fee in the account.
   b) The amount of the fee.
   c) The beginning and ending balance of the account.
   d) The amount of the fees collected and the interest earned.
   e) An identification of each public improvement on which fees were expended and the amount expended on each improvement, including the percentage of the cost of the improvement that was funded with fees.

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f) The approximate date by which construction of a public improvement will commence if the district determines that sufficient funds have been collected to complete financing on an incomplete public improvement.

g) A description of each inter-fund transfer or loan, including the improvement on which the transferred fees will be expended; the date the loan will be repaid; and the loan's interest rate.

h) The amount of refunds made for fees unexpended and uncommitted after five years and any allocations made where the administrative costs of refunding revenues exceeds the amount to be refunded.

i) (Gov. Code § 66006, subd. (b) (1).)

3. Public review of accounting information.

a) The accounting information must be reviewed at the next regularly scheduled public meeting that is at least 15 days after the information is made public. (See sample agenda item, Form A-2.)

b) Notice of the meeting must be mailed at least 15 days prior to the meeting to anyone who has initially requested written notice within the prior 365 days, or to anyone who has renewed a previous notice request by the prior April 1. (See sample notice, Form A-1.)

Note: While no formal Board action or resolution is required for the annual accounting, taking such action helps to create an unambiguous record of the review. (See sample resolution, Form A-3.)

(Gov. Code § 66006, subd. (b)(2).)

E. FIVE YEAR ACCOUNTING

1. In addition to the annual accounting described above, any district imposing developer fees must at five year intervals from the first deposit into the developer fee account, make the following findings regarding any unexpended funds:

a) Identify the purpose to which the fee is to be put

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b) Demonstrate a reasonable relationship between the fee and the purpose for which it is charged

c) Identify all sources and amounts of funding anticipated to complete financing of incomplete improvements

d) Designate the approximate dates on which the funding in (c) above is expected to be deposited into the appropriate account or fund.

(Gov. Code § 66001)

Note: The five-year accounting can usually be presented in the same document as that year's annual accounting. Thus, a district can essentially adopt both its one year and five year accountings annually. (See sample resolution, Form A-3.)

2. There is no specific hearing, meeting or notice requirement for the adoption of the five year findings.

Note: Districts may wish to follow the same process for the 5-year accounting as they do for the annual accounting, as set forth above.

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SAMPLE FORMS

Level 1 Forms

L1-1. Courtesy Letter to Developers 5.3

L1-2. Notice of Hearing on Adoption of Level 1 Fees 5.4

L1-3. Agenda Statements 5.5

L1-4. Resolution Imposing/Increasing Level 1 Fees; Approval of CEQA Exemption 5.6

L1-5. Urgency Resolution Imposing/Increasing Level 1 Fees; Approval Of CEQA Exemption 5.10

L1-6. Resolution Imposing/Increasing High School District Level 1 Fees With Fee-Sharing Agreement; Approval of CEQA Exemption 5.15

L1-7. Resolution Imposing/Increasing Elementary School District Level 1 Fees With Fee-Sharing Agreement; Approval of CEQA Exemption 5.21

L1-8. RESERVED 5.27

L1-9. Notice of CEQA Exemption, Level 1 Fee 5.29

L1-10. Completed Notice of CEQA Exemption 5.31

L1-11. Letter to Building Department - Level 1 Fee 5.33

L1-12. Agreement between Elementary and High School Districts 5.35

L1-13. Appeal of Commercial/Industrial Fees 5.39

L1-14. Certification of Fee Payment - Level 1 Fees 5.40

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Level 2 and 3 Forms

L2-1. Courtesy Letter to Developers 5.44

L2-2. Notice of Hearing on Adoption of Needs Analysis and Level 2 and 3 Fees 5.45

L2-3. Agenda Statements 5.46

L2-4. Resolution Imposing Level 2 and 3 Fees; Approval of CEQA Exemption 5.47

L2-5. RESERVED 5.54

L2-6. Notice of CEQA Exemption 5.56

L2-7. Completed notice of CEQA Exemption 5.58

L2-8. Letter to Building Department 5.60

L2-9. Certification of Fee Payment 5.62

Fee Accounting Forms

A-1. Notice of Accounting Meeting 5.66

A-2. Agenda Statements 5.67

A-3. Resolution Adopting Accounting 5.68

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L1-1. COURTESY LETTER TO DEVELOPERS - LEVEL 1 FEES

[RETYPE ON DISTRICT LETTERHEAD]
[DATE]

Developer
Business Name
Address
City, State Zip Code

Re: Developer Fees for School Facilities

Dear _____:

This letter is being sent to you as a courtesy to inform you that the [insert name] School District will be considering [the adoption of] [an increase in] developer fees on [residential and/or industrial and commercial] development within the District. These fees will [continue to] be used to fund the construction and reconstruction of school facilities.

The data supporting the need for developer fees for school facilities will be available approximately [insert date]. We would be pleased to meet with you and discuss the proposed [fees/increase], if you are interested in doing so.

We anticipate that the school board will consider the [fees/increase] at a board meeting in [insert month], and most likely on [insert specific date]. If you would like a written notice of the hearing, please file a written request with the undersigned for such mailed notice.

Very truly yours,

_____
[title]

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L1-2. NOTICE OF HEARING ON ADOPTION OF LEVEL 1 FEES

NOTICE OF HEARING ON [ADOPTION OF / INCREASE IN] FEE OR CHARGE

NOTICE IS HEREBY GIVEN that at [time] on [date] at [place], the Governing Board of the [name] School District will consider the adoption of a Resolution to [impose a fee] [increase the existing fee] on development projects within the boundaries of the District for the purpose of funding the construction or reconstruction of school facilities pursuant to Education Code section 17620. This [increased] fee would apply [to new commercial and industrial construction,] to new residential construction, and, to the extent of increases in assessable space, to other residential construction as provided by law.

The Governing Board will also consider its exemption from the requirements of the California Environmental Quality Act ("CEQA") relative to the [adoption of] [increase in] the fee and the adoption of a Notice of Exemption pursuant to Education Code section 17621, subd. (a).

Any interested party may make an oral or written presentation at the public meeting.

The [name] School District has made available to the public data indicating the amount or estimated amount required to provide the service for which the fee would be levied, and the revenue sources anticipated to provide the service, including general fund revenues. Such data may be obtained at [office and address], or by contacting [name and title] at [phone number].

By: _____
[name, title]

Published: [dates]
[newspaper]

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L1-3. AGENDA STATEMENTS - LEVEL 1 FEES

A. [INCREASE IN/ADOPTION OF] STATUTORY SCHOOL FACILITIES FEES AND ADOPTION OF CEQA NOTICE OF EXEMPTION

Consideration and possible adoption of Resolution to adopt developer fee justification study, adoptions of findings thereon, [adoption of][increase in] school facilities fees pursuant to Education Code section 17620, and adoption of CEQA Notice of Exemption.

B. OPTIONAL: URGENCY MEASURE

Consideration and possible adoption of urgency Resolution to [adopt] [increase] school facilities fees on an interim basis, effective immediately.

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L1-4: RESOLUTION IMPOSING / INCREASING LEVEL 1 FEES; APPROVAL OF CEQA EXEMPTION

BEFORE THE GOVERNING BOARD OF THE [INSERT NAME] SCHOOL DISTRICT

[INSERT NAME] COUNTY, CALIFORNIA

In the Matter of THE [ADOPTION OF] [INCREASE IN] SCHOOL FACILITIES FEES AND ADOPTION OF CEQA NOTICE OF EXEMPTION	))))))	Resolution No. _____

WHEREAS, Education Code section 17620 authorizes school districts to levy a fee, charge or dedication against any new construction within its boundaries for the purpose of funding the construction or reconstruction of school facilities; and

WHEREAS, pursuant to the authority of Government Code section 65995, subdivision (b)(3), the fees authorized by Education Code section 17620 have presently been established by the State Allocation Board ("SAB") in the amount of $____ per square foot for residential development and $0.____ per square foot for commercial/industrial development; and

WHEREAS, the governing board ("Board") of the _____School District ("District") has caused a study to be prepared by [name] entitled [name] (incorporated herein by reference and hereinafter referred to as the "Study"), which identifies the purpose and use for the fee and sets forth a reasonable relationship between the fee to be imposed, the type of development project on which the fee is to be imposed, and the increased school facilities made necessary by virtue of the burden imposed by the development; and

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WHEREAS, Education Code section 17621 specifically exempts the adoption, increase, or imposition of any fee, charge, dedication or other requirement pursuant to Education Code section 17620 from the provisions of the California Environmental Quality Act ("CEQA")(Pub. Resources Code Section 21000 et seq.); and

WHEREAS, upon a determination that the imposition of school facilities fees under Education Code section 17620 is exempt from CEQA, the District is entitled to file a Notice of Exemption with the County Clerk pursuant to California Code of Regulations, title 14, section 15062.

NOW, THEREFORE, BE IT RESOLVED, that the Board makes the following findings:

Prior to the adoption of this resolution ("Resolution"), the Board of the District conducted a public hearing at which oral and/or written presentations were made as part of the Board's regularly scheduled [date] meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered has been published twice in the [name of newspaper] in accordance with Government Code sections 66017 and 66018. Additionally, at least 10 days prior to the meeting, the District made all relevant information available to the public indicating the cost, or estimated cost, of the construction or reconstruction of school facilities made necessary by the residential and/or commercial/industrial development to which the fee shall apply.

1. The purpose of the fees is to provide adequate school facilities for the students of the District who will be generated by residential and commercial/industrial development in the District.

2. The fees are to be used to finance the construction and reconstruction of school facilities. [If possible, add: The Facilities to be constructed or reconstructed are identified in the District's proposed construction plan, [explain how to find document, e.g., "included in the District's plan attached hereto"].]

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3. There is a reasonable relationship between the need for the imposition of the fee and the types of development projects upon which the fees shall be imposed for the purpose of the construction or reconstruction of school facilities, in that residential, commercial and industrial development will generate students who will attend District schools. These students cannot be housed by the District without additional school facilities, or the reconstruction of existing school facilities. The fees will be used to fund all, or a portion of, new school facilities, or to reconstruct existing school facilities.

4. There is a reasonable relationship between the amount of the fee and the cost of the additional or reconstructed school facilities attributable to the development upon which the fee shall be imposed, in that the square footage of these developments has a direct relationship to the number of students that will be generated, and thus to the facilities the District must add and/or reconstruct in order to accommodate the additional students.

5. The District maintains a separate capital facilities account, or fund, as required by Government Code section 66006.

6. There are no other adequate sources of funds to meet the District's school facilities needs occasioned by, and resulting from, the construction of new residential and/or commercial/industrial development within the District.

AND BE IT FURTHER RESOLVED that the Board incorporates herein by reference, approves and adopts the Study entitled _____, dated _____, and prepared by _____ which documents the need for the school facilities fees.

AND BE IT FURTHER RESOLVED that since the Study justifies fees [at] [in excess of] the allowable limits, the District hereby [imposes] [increases] fees on residential development [at] [to]

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$_____ per square foot, and fees on commercial/industrial developments [at] [to] $0._____ per square foot, in accordance with Education Code sections 17620, et seq., and Government Code sections 65995, et seq.

AND BE IT FURTHER RESOLVED that the [imposition of] [increase in] fees shall take effect sixty (60) days after the date of this Resolution.

AND BE IT FURTHER RESOLVED that the Superintendent of the District, or his or her designee, shall give notice of the Board's action herein to all cities and counties with jurisdiction over the territory of the District in accordance with the requirements of Education Code section 17620 and 17621, requesting that no building permits (or, for manufactured homes and mobile homes, certificates of occupancy) be issued on or after the date which is sixty (60) days after the date of this Resolution, without certification from the District that the fee specified herein have been paid. [Note: if the District has an agreement with another local agency (i.e. a city, county, or another district) to collect its fees, delete the clause, starting from the word "without", in the previous sentence, and replace with the following: "without the fee specified herein having been collected by the [local agency].".] Said notice shall specify that collection of the fees is not subject to the restriction set forth in Government Code section 66007, subdivision (a) but, pursuant to subdivision (b) of that statute, the fees are to be collected prior to issuance of building permits.

AND BE IT FURTHER RESOLVED that developers of commercial or industrial development be provided the opportunity for a hearing to appeal the imposition of the fee on their developments.

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AND BE IT FURTHER RESOLVED that nothing contained or expressed in this Resolution shall be construed to affect the District's authority to increase fees, enter into agreements with developers, or otherwise adopt or impose, to the extent permitted by law, additional fees, to fully mitigate the impact of residential and/or commercial/industrial development upon the District's school facilities.

AND BE IT FURTHER RESOLVED that, in the event that the Board takes action in the future to adopt an alternative fee pursuant to Government Code section 65995.5 or 65995.7, commonly known as "Level 2" or "Level 3" fees, respectively, in an amount greater than that authorized by this Resolution, this Resolution shall be held in abeyance during the time in which the greater Level 2 or Level 3 fee is authorized. If, for any reason, any future Board action to adopt a greater Level 2 or Level 3 fee ceases to be effective, this Resolution shall then immediately return into effect unless otherwise specified by the Board.

AND BE IT FURTHER RESOLVED that the District's administration is authorized to make expenditures and to incur obligations of the fees for the purposes authorized by law.

AND BE IT FURTHER RESOLVED that the Board hereby finds that the [adoption of] [increase in] fees hereunder is statutorily exempt from the requirements of CEQA pursuant to Education Code section 17621.

AND BE IT FURTHER RESOLVED that this Board hereby approves the CEQA Notice of Exemption regarding the [imposition of] [increase in] fees and directs the Superintendent, or his or her designee, to file the CEQA Notice of Exemption, together with a certified copy of this Resolution, with the County Clerk of each County in which the District shall collect fees pursuant to Education Code Section 17621.

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AND BE IT FURTHER RESOLVED that this Board hereby adopts this Resolution and directs the Superintendent, or his or her designee, to file a certified copy of this Resolution, together with all relevant supporting documentation and a map clearly indicating the boundaries of the area subject to the fee, to each city and each county in which the District is situated, pursuant to Education Code section 17621.

This Resolution is adopted this ____day of _____, _____ by the following vote:

AYES: _____

NOES: _____

ABSTENTIONS: _____

ABSENT: _____

_____
Clerk of the Governing Board

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L1-5. URGENCY RESOLUTION IMPOSING / INCREASING LEVEL 1 FEES; APPROVAL OF CEQA EXEMPTION

[NOTE: CONSULTATION WITH LEGAL COUNSEL BEFORE USE IS RECOMMENDED]

BEFORE THE GOVERNING BOARD OF THE [INSERT NAME] SCHOOL DISTRICT

[INSERT NAME] COUNTY, CALIFORNIA

In the Matter of THE ADOPTION OF [INCREASE IN] SCHOOL FACILITIES FEES AND ADOPTION OF CEQA NOTICE OF EXEMPTION	)	Urgency Resolution No. _____

WHEREAS, Education Code section 17620 authorizes school districts to levy a fee, charge or dedication against any new construction within its boundaries for the purpose of funding the construction or reconstruction of school facilities and to impose certain fees thereon; and

WHEREAS, pursuant to the authority of Government Code section 65995, subdivision (b)(3), the fees authorized by Education Code section 17620 have presently been established by the State Allocation Board ("SAB") in the amount of $____ per square foot for residential development and $0.____ per square foot for commercial/industrial development; and

WHEREAS, the governing board ("Board") of the _____School District ("District") has caused a study to be prepared by [name] entitled [name] (incorporated herein by reference and hereinafter referred to as the "Study"), which identifies the purpose and use for the fee and sets forth a reasonable relationship between the fee to be imposed, the type of development project on which the fee is to be imposed, and the increased school facilities made necessary by virtue of the burden imposed by the development; and

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WHEREAS the District is currently authorized by prior Board Resolution No. _____ to collect fees in the amount of $___ (residential) or $___ (commercial/industrial) per square foot; and

WHEREAS the District is confronted with a rapidly increasing student population for which it lacks adequate facilities; and

WHEREAS [describe by name and description any large development projects which are about to be approved or recently have been approved] for which building permits may be drawn within the next thirty (30) days; and

WHEREAS it would be fundamentally unfair to both developers of other projects and the District for the District to receive the increased fee for building permits issued more than sixty days from the date of this Resolution, but not for those issued within sixty days from the date of this Resolution for the [name of project(s)]; and

WHEREAS, Education Code section 17621 specifically exempts the adoption, increase, or imposition of any fee, charge, dedication or other requirement pursuant to Education Code section 17620 from the provisions of the California Environmental Quality Act ("CEQA")(Pub. Resources Code Section 21000 et seq.); and

WHEREAS, upon a determination that the imposition of school facilities fees under Education Code section 17620 is exempt from CEQA, the District is entitled to file a Notice of Exemption with the County Clerk pursuant to California Code of Regulations, title 14, section 15062.

NOW THEREFORE BE IT RESOLVED, that the Board makes the following findings regarding its fees:

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1. Prior to the adoption of this resolution ("Resolution"), the Board of the District conducted a public hearing at which oral and/or written presentations were made as part of the Board's regularly scheduled [date] meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered has been published twice in the [name of newspaper] in accordance with Government Code sections 66017 and 66018. Additionally, at least 10 days prior to the meeting, the District made all relevant information available to the public indicating the cost, or estimated cost, of the construction or reconstruction of school facilities made necessary by the residential and/or commercial/industrial development to which the fee shall apply.

2. The purpose of the fees is to provide adequate school facilities for the students of the District who will be generated by residential and commercial/industrial development in the District.

3. The fees are to be used to finance the construction and reconstruction of school facilities. [If possible, add: The facilities to be constructed or reconstructed are identified in the District's proposed construction plan, [explain how to find document, e.g. "included in the District's plan attached hereto"].]

4. There is a reasonable relationship between the need for the fees and the use of the fees, and the types of development projects on which the fees are imposed, in that residential, commercial and industrial development will generate students who will attend District schools. These students cannot be housed by the District without additional facilities and/or the reconstruction of existing facilities. The fees will be used to fund all, or a portion of, new school facilities, or to reconstruct existing school facilities.

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5. There is a reasonable relationship between the amount of the fees and the cost of the facilities attributable to the developments on which the fee is imposed, in that the square footage of these developments has a direct relationship to the number of students generated, and thus to the facilities which the District must add to and/or reconstruct in order to accommodate these students.

6. There exists in the District accounts a separate capital facilities account or fund, in accordance with the requirements of Government Code section 66006.

7. There are no other adequate sources of funds to meet School District facilities need occasions by, and resulting from, the construction of new residential and/or commercial/industrial development within the District.

8. Due to the threat of overcrowded classrooms that will result from new development including [name of project] and the resulting decline in quality of education and increased safety risks to students and District employees, there exists a current and immediate threat to the public health, welfare and safety which warrants immediate imposition of the developer fee amounts most recently established by the State Allocation Board.

AND BE IT FURTHER RESOLVED that the Board incorporates herein by reference, approves and adopts the developer fee study entitled _____, dated _____, and prepared by _____ which documents the need for the school facilities fees.

AND BE IT FURTHER RESOLVED that since the documentation justifies fees [at] [in excess of] the allowable limits, the District hereby [imposes] [increases] fees on residential

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developments [at] [to] $_____ per square foot, and fees on commercial/industrial developments [at] [to] $0.____ per square foot, in accordance with Education Code sections 17620, et seq. and Government Code sections 65995, et seq.

AND BE IT FURTHER RESOLVED that the [imposition of] [increase in] fees shall take effect immediately on the date of this Resolution, and shall remain in effect for thirty (30) days.

AND BE IT FURTHER RESOLVED that no later than thirty (30) days from the date of this Resolution, the Board shall review this Resolution to determine whether there remains an urgent basis for immediate collection of the school facilities fees identified herein, and upon such a determination, and such notice and hearing as is required by law, the Board may renew this Resolution for an additional thirty (30) days.

AND BE IT FURTHER RESOLVED that the Superintendent or his or her designee shall give notice to all cities and counties with jurisdiction over the territory of the District of the Board's action, in accordance with the requirements of Education Code sections 17620 and 17621, requesting that no building permits (or, for manufactured homes and mobile homes, certificates of occupancy) be issued on or for thirty (30) days after the date of this Resolution, without certification from the District that the fees specified herein have been paid. [Note: if the District has an agreement with another local agency (i.e. a city, county, or another district) to collect its fees, delete the clause, starting from the word "without", in the previous sentence, and replace with the following: "without the fee specified herein having been collected by the [local agency].".] Said notice shall specify that collection of the fee is not subject to the restriction set forth in Government Code Section 66007, subdivision (a) but, pursuant to subdivision (b) of that statute, the fees are to be collected prior to issuance of building permits.

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AND BE IT FURTHER RESOLVED that developers of commercial or industrial development be provided the opportunity for a hearing to appeal the imposition of fees on their developments.

AND BE IT FURTHER RESOLVED that nothing contained or expressed in this Resolution shall be construed to affect the District's authority to increase fees, enter into agreements with developers, or otherwise adopt or impose, to the extent permitted by law, additional fees, to fully mitigate the impact of resident and/or commercial/industrial development upon the District's school facilities.

AND BE IT FURTHER RESOLVED that the administration is authorized to make expenditures and incur obligations of the fees for the purposes authorized by law.

AND BE IT FURTHER RESOLVED that the Board hereby finds that the [adoption of] [increase in] fees hereunder is statutorily exempt from the requirements of CEQA pursuant to Education Code section 17621.

AND BE IT FURTHER RESOLVED that this Board hereby approves the CEQA Notice of Exemption regarding the [imposition of] [increase in] fees and directs the Superintendent, or his or her designee, to file the CEQA Notice of Exemption, together with a certified copy of this Resolution, with the County Clerk of each County in which the District shall collect fees pursuant to Education Code Section 17621.

AND BE IT FURTHER RESOLVED that this Board hereby adopts this Resolution and directs the Superintendent, or his or her designee, to file a certified copy of this Resolution, together with all relevant supporting documentation and a map clearly indicating the boundaries of the area subject to the fee, to each city and each county in which the District is situated, pursuant to Education Code section 17621.

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This Urgency Resolution is adopted this ____ day of _____, ____, by the following vote:

AYES: _____

NOES: _____

ABSTENTIONS: _____

ABSENT: _____

_____
Clerk of the Governing Board

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L1-6: RESOLUTION IMPOSING / INCREASING HIGH SCHOOL DISTRICT LEVEL 1 FEES WITH FEE-SHARING AGREEMENT; APPROVAL OF CEQA EXEMPTION

BEFORE THE GOVERNING BOARD OF THE

[name] SCHOOL DISTRICT

[name] COUNTY, CALIFORNIA

In the Matter of	)	Resolution No. _____
	)	
[ADOPTION OF] [INCREASE IN]	)	
SCHOOL FACILITIES FEES AND	)	
APPROVAL OF CEQA EXEMPTION	)	

WHEREAS Education Code section 17620 authorizes school districts to levy a fee, charge or dedication against any new construction within its boundaries for the purpose of funding the construction or reconstruction of school facilities; and

WHEREAS the _____ School District ("District") by agreement with its feeder elementary school district(s) ("Fee-Sharing Agreement"), may levy [amount]% of the total fees authorized by Government Code Section 65995, subdivision (b)(3), for development in areas in which the District provides school services. The remaining permitted fees are to be allocated to the feeder elementary school district(s) within whose boundaries the residential, commercial, or industrial development shall occur; and

WHEREAS pursuant to the authority of Government Code section 65995, subdivision (b)(3), allowable fees authorized by Education Code section 17620 have presently been established by the

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WHEREAS the governing board ("Board") of the District has caused a study to be prepared by [name] entitled [name] (incorporated herein by reference and hereinafter referred to as the "Study"), which identifies the purpose and use for the fee and sets forth a reasonable relationship between the fee to be imposed, the type of development project on which the fee is to be imposed, as well as the cost of the increased school facilities made necessary by virtue of the burden imposed by the development; and

[WHEREAS the Study justifies the District's imposition of a fee in the amount of $____ per square foot for residential development and $0.____ per square foot for commercial/ industrial development; and]

WHEREAS based upon the Fee-Sharing Agreement [and in accordance with the increased level of fees permitted by the SAB pursuant to Government Code section 65995], the District may levy the following fees, [which represent a percentage of the SAB Authorized Fee Amounts]

1. $_____ [amount] per square foot of residential development ([amount]% of $_____).

2. $0.____ [amount] per square foot of commercial or industrial development ([amount]% of $0.____).

These amounts are justified by the needs of the District alone and do not include the needs of the feeder districts; and

WHEREAS Education Code section 17621 specifically exempts the adoption, increase, or imposition of any fee, charge, dedication or other requirement pursuant to Education Code section 17620 from the provisions of the California Environmental Quality Act ("CEQA")(Pub. Resources Code Section 21000 et seq.); and

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WHEREAS, upon a determination that the imposition of school facilities fees under Education Code section 17620 is exempt from CEQA, the District is entitled to file a Notice of Exemption with the County Clerk pursuant to California Code of Regulations, title 14, section 15062.

NOW, THEREFORE, BE IT RESOLVED, that the Board makes the following findings:

1. Prior to the adoption of this resolution ("Resolution"), the Board of the District conducted a public hearing at which oral and written presentations were made as part of the Board's regularly scheduled [date] meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered has been published twice in the [name of newspaper] in accordance with Government Code sections 66017 and 66018. Additionally, at least 10 days prior to the meeting, the District made all relevant information available to the public indicating the cost, or estimated cost, of the construction or reconstruction of school facilities made necessary by the residential and/or commercial/industrial development to which the fee shall apply.

2. The purpose of the fees is to provide adequate school facilities for the students of the District who will be generated by residential and commercial/industrial development in the District.

3. The fees are to be used to finance the construction and reconstruction of school facilities. [If possible, add: The Facilities to be constructed or reconstructed are identified in the District's proposed construction plan, [explain how to find document, e.g., "included in the District's plan attached hereto"].]

4. There is a reasonable relationship between the need for the imposition of the fee and the types of development projects upon which the fees shall be imposed for the purpose of the construction or reconstruction of school facilities, in that residential, commercial and industrial development will generate students who will attend District schools. These students cannot be

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housed by the District without additional school facilities, or the reconstruction of existing school facilities. The fees will be used to fund all, or a portion of, new school facilities, or to reconstruct existing school facilities.

5. There is a reasonable relationship between the amount of the fee and the cost of the additional or reconstructed school facilities attributable to the development upon which the fee shall be imposed, in that the square footage of these developments has a direct relationship to the number of students that will be generated, and, thus, to the facilities the District must add or reconstruct in order to accommodate the additional students.

6. The District maintains a separate capital facilities account, or fund, as required by Government Code section 66006.

7. There are no other adequate sources of funds to meet the District's school facilities needs occasioned by, and as a direct result of, the construction of new residential and/or commercial/industrial development within the District.

AND BE IT FURTHER RESOLVED that the Board incorporates herein by reference, approves and adopts the Study entitled _____, dated _____, and prepared by _____ which documents the need for the fees.

AND BE IT FURTHER RESOLVED that since the Study justifies fees [at] [in excess of] the SAB Authorized Fee Amounts, the District, in accordance with Education Code sections 17620, et seq., and Government Code sections 65995, et seq., and the Fee-Sharing Agreement, hereby [imposes] [increases] fees in the following amounts:

1. $_____ per square foot of residential development;

2. $0._____ per square foot of commercial or industrial development.

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[Optional: AND BE IT FURTHER RESOLVED that, pursuant to the Fee-Sharing Agreement, the District shall continue to collect and distribute fees on behalf of the feeder school districts to the extent authorized by the feeder school districts.]

[AND BE IT FURTHER RESOLVED that, if the governing board of any feeder elementary school district has not implemented a fee equal to the SAB Authorized Fee Amounts or the feeder elementary school district's share thereof pursuant to the Fee-Sharing Agreement, the District shall levy and collect fees equal to the greater of: (i) the District's allocated percentage of the SAB Authorized Fee Amounts pursuant to the Fee-Sharing Agreement; or (ii) the total SAB Authorized Fee Amounts less the fees that the feeder elementary school district has implemented and is entitled to receive pursuant to the Fee-Sharing Agreement. In no event, however, shall the District's fee imposed pursuant to this Resolution exceed the justified fee set forth in the Study. Upon the feeder elementary school district's implementation of a fee equal to the SAB Authorized Fee Amounts, or the feeder elementary school district's share thereof pursuant to the Fee-Sharing Agreement, the District and the feeder elementary school district shall resume collection and levy of fees in accordance with their respective percentage allocations as set forth in the Fee-Sharing Agreement.]

AND BE IT FURTHER RESOLVED that the amount collected on behalf of both the District and feeder districts pursuant to this Resolution shall not exceed a total of $___ per square foot for residential development and $0.___ per square foot of commercial or industrial development, except as otherwise set forth herein.

AND BET IT FURTHER RESOLVED that the increase in the fee shall take effect sixty (60) days after the date of this Resolution.

AND BE IT FURTHER RESOLVED that the Superintendent of the District, or his or her designee, shall give notice of the Board's action herein to all cities and counties with jurisdiction over

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the territory of the District in accordance with the requirements of Education Code section 17620 and 17621, requesting that no building permits (or, for manufactured homes and mobile homes, certificates of occupancy) be issued on or after the date which is sixty (60) days after the date of this Resolution, without certification from the District that the fee specified herein have been paid. [Note: if the District has an agreement with another local agency (i.e. a city, county, or another district) to collect its fees, delete the clause, starting from the word "without", in the previous sentence, and replace with the following: "without the fee specified herein having been collected by the [local agency].".] Said notice shall specify that collection of the fee is not subject to the restriction set forth in Government Code section 66007, subdivision (a) but, pursuant to subdivision (b) of that statute, the fees are to be collected prior to issuance of building permits.

AND BE IT FURTHER RESOLVED that developers of commercial or industrial development be provided the opportunity for a hearing to appeal the imposition of the fee on their developments.

AND BE IT FURTHER RESOLVED that nothing contained or expressed in this Resolution shall be construed to affect the District's authority to increase the fee, enter into agreements with developers, or otherwise adopt or impose, to the extent permitted by law, additional fees, to fully mitigate the impact of residential and/or commercial/industrial development upon the District's school facilities.

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AND BE IT FURTHER RESOLVED that, in the event that the Board takes action in the future to adopt an alternative fee pursuant to Government Code section 65995.5 or 65995.7, commonly known as “Level 2" or “Level 3" fees, respectively, in an amount greater than that authorized by this Resolution, this Resolution shall be held in abeyance during the time in which the greater Level 2 or Level 3 fee is authorized. If, for any reason, any future Board action to adopt a greater Level 2 or Level 3 fee ceases to be effective, this Resolution shall then immediately return into effect unless otherwise specified by the Board.

AND BE IT FURTHER RESOLVED that the District’s administration is authorized to make expenditures and to incur obligations of the fees for the purposes authorized by law.

AND BE IT FURTHER RESOLVED that the Board hereby finds that the [adoption of] [increase in] fees hereunder is statutorily exempt from the requirements of CEQA pursuant to Education Code section 17621.

AND BE IT FURTHER RESOLVED that this Board hereby approves the CEQA Notice of Exemption regarding the [imposition of] [increase in] fees and directs the Superintendent, or his or her designee, to file the CEQA Notice of Exemption, together with a certified copy of this Resolution, with the County Clerk of each County in which the District shall collect fees pursuant to Education Code Section 17621.

AND BE IT FURTHER RESOLVED that this Board hereby adopts this Resolution and directs the Superintendent, or his or her designee, to file a certified copy of this Resolution, together with all relevant supporting documentation and a map clearly indicating the boundaries of the area subject to the fee, to each city and each county in which the District is situated, pursuant to Education Code section 17621.

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This Resolution is adopted this ____day of _____, _____ by the following vote:

AYES: _____

NOES: _____

ABSTENTIONS: _____

ABSENT: _____

_____
Clerk of the Governing Board

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L1-7: RESOLUTION IMPOSING / INCREASING ELEMENTARY SCHOOL DISTRICT LEVEL 1 FEES WITH FEE-SHARING AGREEMENT; APPROVAL OF CEQA EXEMPTION

BEFORE THE GOVERNING BOARD OF THE

[name] SCHOOL DISTRICT

[name] COUNTY, CALIFORNIA

In the Matter of [ADOPTION OF] [INCREASE IN] SCHOOL FACILITIES FEES; APPROVAL OF CEQA EXEMPTION,	))))))	Resolution No. _____

WHEREAS Education Code section 17620 authorizes school districts to levy a fee, charge or dedication against any new construction within its boundaries for the purpose of funding the construction or reconstruction of school facilities; and

WHEREAS the _____ School District ("District") by agreement with the high school district[s] sharing geographical territory with the District ("Fee-Sharing Agreement"), may levy [amount]% of [the total fees] permitted pursuant to Government Code Section 65995 for development in areas in which the District provides school services. The remaining permitted fees shall be allocated to the high school district(s) within whose boundaries the residential, commercial, or industrial development shall occur; and

WHEREAS pursuant to the authority of Government Code section 65995, subdivision (b)(3), the allowable fees authorized by Education Code section 17620 have presently been established by the State Allocation Board ("SAB") in the amount of $____ per square foot for residential

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development and $0.____ per square foot for commercial/industrial development ("SAB Authorized Fee Amounts"); and

WHEREAS on [date], pursuant to resolution No.:____ , the governing board ("Board") of the District adopted a study prepared by [name] entitled [name] (incorporated herein by reference and hereinafter referred to as the "Study"), which identified the purpose and use for the fee and sets forth a reasonable relationship between the fee to be imposed, the type of development project on which the fee is to be imposed, as well as the cost of the increased school facilities made necessary by virtue of the burden imposed by the development; and

[WHEREAS the Study justifies the District's imposition of a fee in the amount of $____ per square foot for residential development and $0.____ per square foot for commercial/ industrial development; and]

WHEREAS based upon the Fee-Sharing Agreement [and in accordance with the increased level of fees permitted by the SAB pursuant to Government Code section 65995], the District may levy the following fees, [which represent a percentage of the SAB Authorized Fee Amounts]

1. $_____ [amount] per square foot of residential development ([amount]% of $_____).

2. $_____ per square foot of commercial or industrial development ([amount]% of $0.____).

These amounts are justified by the needs of the District alone and do not include the needs of the high school district[s]; and

WHEREAS Education Code section 17621 specifically exempts the adoption, increase, or imposition of any fee, charge, dedication or other requirement pursuant to Education Code section

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17620 from the provisions of the California Environmental Quality Act ("CEQA") (Pub. Resources Code Section 21000 et. seq); and

WHEREAS upon a determination that the imposition of school facilities fees under Education Code section 17620 is exempt from CEQA, the District is entitled to file a Notice of Exemption with the County Clerk pursuant to California Code of Regulations, title 14, section 15062 .

NOW, THEREFORE, BE IT RESOLVED, that the Board makes the following findings:

1. Prior to the adoption of this resolution ("Resolution"), the Board of the District conducted a public hearing at which oral and written presentations were made as part of the Board's regularly scheduled [date] meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered has been published twice in the [name of newspaper] in accordance with Government Code sections 66017 and 66018. Additionally, at least 10 days prior to the meeting, the District made all relevant information available to the public indicating the cost, or estimated cost, of the construction or reconstruction of school facilities made necessary by the residential and/or commercial/industrial development to which the fee shall apply.

2. The purpose of the fees is to provide adequate school facilities for the students of the District who will be generated by residential and commercial/industrial development in the District.

3. The fees are to be used to finance the construction and reconstruction of school facilities. [If possible, add: The Facilities to be constructed or reconstructed are identified in the District's proposed construction plan, [explain how to find document, e.g., "included in the District's plan attached hereto"].]

4. There is a reasonable relationship between the need for the imposition of the fee and the types of development projects upon which the fees shall be imposed for the purpose of the construction or reconstruction of school facilities, in that residential, commercial and industrial

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development will generate students who will attend District schools. These students cannot be housed by the District without additional school facilities, or the reconstruction of existing school facilities. The fees will be used to fund all, or a portion of, new school facilities, or to reconstruct existing school facilities.

5. There is a reasonable relationship between the amount of the fee and the cost of the additional or reconstructed school facilities attributable to the development upon which the fee shall be imposed, in that the square footage of these developments has a direct relationship to the number of students that will be generated, and, thus, to the facilities the District must add or reconstruct in order to accommodate the additional students.

6. The District maintains a separate capital facilities account, or fund, as required by Government Code section 66006.

7. There are no other adequate sources of funds to meet the District's school facilities needs occasioned by, and as a direct result of, the construction of new residential and/or commercial/industrial development within the District.

AND BE IT FURTHER RESOLVED that the Board incorporates herein by reference, approves and adopts the Study entitled _____, dated _____, and prepared by _____ which documents the need for the fees.

AND BE IT FURTHER RESOLVED that since the Study justifies fees [at] [in excess of] the SAB Authorized Fee Amounts, the District, in accordance with Education Code sections 17620, et seq., and Government Code sections 65995, et seq., and the Fee-Sharing Agreement, hereby [imposes] [increases] fees in the following amounts:

1. $_____ per square foot of residential development;

2. $0._____ per square foot of commercial or industrial development.

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[AND BE IT FURTHER RESOLVED that, pursuant to the Fee-Sharing Agreement, the District shall continue to collect and distribute fees on behalf of the high school district[s] to the extent authorized by the high school district[s].]

[AND BE IT FURTHER RESOLVED that, if the governing board of the high school district has not implemented a fee equal to the SAB Authorized Fee Amounts or the high school district's share thereof, pursuant to the Fee-Sharing Agreement, the District shall have the right to levy and collect fees equal to the greater of: (i) the District's allocated percentage of the SAB Authorized Fee Amounts pursuant to the Fee-Sharing Agreement; or (ii) the total SAB Authorized Fee Amounts less the fees that the high school district has implemented and is entitled to receive pursuant to the Fee-Sharing Agreement. In no event, however, shall the District's fee imposed pursuant to this Resolution exceed the justified fee set forth in the Study. Upon the high school district[s'] implementation of a fee equal to the SAB Authorized Fee Amounts, the District and the high school districts shall resume collection and levy of fees in accordance with their respective percentage allocations as set forth in the Fee-Sharing Agreement.]

AND BE IT FURTHER RESOLVED that the amount collected on behalf of both the District and the high school district[s] pursuant to this Resolution shall not exceed a total of $___ per square foot for residential development and $0.___ per square foot of commercial or industrial development, except as otherwise set forth herein.

AND BET IT FURTHER RESOLVED that the [increase in] [imposition of] the fee shall take effect sixty (60) days after the date of this Resolution.

AND BE IT FURTHER RESOLVED that the Superintendent of the District, or his or her designee, shall give notice of the Board's action herein to all cities and counties with jurisdiction over the territory of the District in accordance with the requirements of Education Code section 17620 and

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17621, requesting that no building permits (or, for manufactured homes and mobile homes, certificates of occupancy) be issued on or after the date which is sixty (60) days after the date of this Resolution, without certification from the District that the fee specified herein have been paid. [Note: if the Districts have an agreement with another local agency (i.e. a city, county, or another district) to collect its fees, delete the clause, starting from the word "without", in the previous sentence, and replace with the following: "without the fee specified herein having been collected by the [local agency]."] Said notice shall specify that collection of the fee is not subject to the restriction set forth in Government Code section 66007, subdivision (a) but, pursuant to subdivision (b) of that statute, the fees are to be collected prior to issuance of building permits.

AND BE IT FURTHER RESOLVED that developers of commercial or industrial development be provided the opportunity for a hearing to appeal the imposition of the fee on their developments.

AND BE IT FURTHER RESOLVED that nothing contained or expressed in this Resolution shall be construed to affect the District's authority to increase the fee, enter into agreements with developers, or otherwise adopt or impose, to the extent permitted by law, additional fees, to fully mitigate the impact of residential and/or commercial/industrial development upon the District's school facilities.

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AND BE IT FURTHER RESOLVED that, in the event that the Board takes action in the future to adopt an alternative fee pursuant to Government Code section 65995.5 or 65995.7, commonly known as “Level 2" or “Level 3" fees, respectively, in an amount greater than that authorized by this Resolution, this Resolution shall be held in abeyance during the time in which the greater Level 2 or Level 3 fee is authorized. If, for any reason, any future Board action to adopt a greater Level 2 or Level 3 fee ceases to be effective, this Resolution shall then immediately return into effect unless otherwise specified by the Board.

AND BE IT FURTHER RESOLVED that the District’s administration is authorized to make expenditures and to incur obligations of the fees for the purposes authorized by law.

AND BE IT FURTHER RESOLVED that the Board hereby finds that the [adoption of] [increase in] fees hereunder is statutorily exempt from the requirements of CEQA pursuant to Education Code section 17621.

AND BE IT FURTHER RESOLVED that this Board hereby approves the CEQA Notice of Exemption regarding the [imposition of] [increase in] fees and directs the Superintendent, or his or her designee, to file the CEQA Notice of Exemption, together with a certified copy of this Resolution, with the County Clerk of each County in which the District shall collect fees pursuant to Education Code Section 17621.

AND BE IT FURTHER RESOLVED that this Board hereby adopts this Resolution and directs the Superintendent, or his or her designee, to file a certified copy of this Resolution, together with all relevant supporting documentation and a map clearly indicating the boundaries of the area subject to the fee, to each city and each county in which the District is situated, pursuant to Education Code section 17621.

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This Resolution is adopted this ____day of _____, _____ by the following vote:

AYES: _____

NOES: _____

ABSTENTIONS: _____

ABSENT: _____

_____
Clerk of the Governing Board

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L1-9. NOTICE OF CEQA EXEMPTION - LEVEL 1 FEES

NOTICE OF CEQA EXEMPTION

TO: County Clerk
County of _____

FROM: _____
School District

_____
PROJECT TITLE

_____
PROJECT LOCATION - SPECIFY

_____
PROJECT LOCATION – CITY PROJECT LOCATION - COUNTY

_____
DESCRIPTION OF NATURE, PURPOSE, AND BENEFICIARIES OF PROJECT

_____
NAME OF PUBLIC AGENCY APPROVING PROJECT

_____
NAME OF PERSON OR AGENCY CARRYING OUT PROJECT

EXEMPT STATUS: (CHECK ONE)

_____ Ministerial (14 Cal. Code Regs., § 15268.)
_____ Emergency Declared by Governor (14 Cal. Code Regs, §15269, subd. (a).)
_____ Emergency Project (14 Cal. Code Regs, § 15269, subds. (b) and (c).)
_____ Categorical Exemption. State type and section number:
_____ Other. State basis:

_____
REASONS WHY PROJECT IS EXEMPT

_____
CONTACT PERSON AREA CODE TELEPHONE EXTENSION

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IF FILED BY APPLICANT:

1. Attach certified document of exemption finding.

2. Has a Notice of Exemption been filed by the public agency approving the project?

   Yes ___ No ___ N/A___

Date received for filing
(To be completed by the County Clerk.)

_____
Signature

_____
Title (District CEQA Officer)

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L1-10. COMPLETED NOTICE OF CEQA EXEMPTION - LEVEL 1 FEES

NOTICE OF CEQA EXEMPTION

TO: County Clerk
County of _____

FROM: _____
School District

Imposing Developer Fees
PROJECT TITLE

[name] School District
PROJECT LOCATION - SPECIFY

PROJECT LOCATION - CITY PROJECT LOCATION - COUNTY

[Adoption] [Increase] of a fee against construction within the boundaries of the district for the purpose of funding the construction and reconstruction of school facilities pursuant to Education Code section 17620
DESCRIPTION OF NATURE, PURPOSE, AND BENEFICIARIES OF PROJECT

[name] School District
NAME OF PUBLIC AGENCY APPROVING PROJECT

[name] School District
NAME OF PERSON OR AGENCY CARRYING OUT PROJECT

EXEMPT STATUS: (CHECK ONE)

_____ Ministerial (14 Cal. Code Regs., § 15268)
_____ Emergency Declared by Governor (14 Cal. Code Regs, §15269, subd. (a))
_____ Emergency Project (14 Cal. Code Regs, § 15269, subds. (b) and (c))
_____ Categorical Exemption. State type and section number:
__X__ Other. State basis: *Statutory exemption under Ed. Code § 17621, subd. (a).*

Adoption or increases in school facilities fees are exempt from CEQA under applicable statutory law.
REASONS WHY PROJECT IS EXEMPT

CONTACT PERSON AREA CODE TELEPHONE EXTENSION

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IF FILED BY APPLICANT:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project?

   Yes ___ No ___ N/A _X_

Date received for filing
(To be completed by the County Clerk.)

_____
Signature

_____
Title (District CEQA Officer)

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L1-11. LETTER TO BUILDING DEPARTMENT - LEVEL 1 FEES

[DISTRICT LETTERHEAD]

[DATE SHOULD BE NEXT DAY AFTER BOARD ADOPTS OR INCREASES FEES]

Building Department
[City/County] of _____
[Address]
[City, State zip]

Re: [Adoption of] [Increase in Amount of] School District Fees

Dear _____:

At its meeting of _____, _____, the governing board of the _____ School District approved a resolution [adopting] [increasing] school facilities fees. These fees will be $_____ per square foot for residential developments and $0.___ per square foot for commercial and industrial developments.

A copy of the Board's resolution is attached. The resolution is accompanied by a copy of the supporting documentation and a map indicating the boundaries of the area subject to the fees.

The collection of the fee is not subject to the restriction set forth in Government Code section 66007, subdivision (a), but, pursuant to subdivision (b) of that statute, the fees are to be collected prior to issuance of building permits. As shown in the enclosed documentation, the District will use the fees for the purpose of funding the construction and reconstruction of school facilities; all fees will be placed in the District's restricted capital facilities fund; the Board has authorized expenditure of the fees; and the Board has adopted a proposed construction plan for the facilities to be built with the fees.

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These fees will become effective for all purposes on [60-day date].

[If applicable: Additionally, these fees were also enacted on an interim basis through an urgency resolution, and therefore become effective immediately; the fees may remain in effect on this interim basis for 30 days pursuant to Education Code section 17621, subdivision (b). The District may renew this interim measure for an additional 30 days upon further action of our Board. You will be notified accordingly if such action is taken.]

Please inform your staff that, pursuant to Education Code sections 17620 and 17621, and Government Code section 66007, the building department may not issue a building permit within the District beginning [60 day date] [or, if an urgency resolution was adopted, "immediately"], without certification from the District that the fees have been paid to the District. [Note: if the District has an agreement with another local agency (i.e. a city, county, or another district) to collect its fees, delete the clause, starting from the word "without", in the previous sentence, and replace with the following: "without the fee specified herein having been collected by the [local agency].".]

Thank you for your cooperation. If you have any questions, please contact [District person] at [phone number].

Very truly yours,

[Name]
[Title]

[NOTE: THIS LETTER SHOULD BE SENT CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR, IF THE LETTER IS HAND-DELIVERED, A COPY SHOULD BE TAKEN ALONG, STAMPED BY THE BUILDING DEPARTMENT TO SHOW RECEIPT, AND KEPT BY THE DISTRICT.]

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L1-12. AGREEMENT BETWEEN ELEMENTARY AND HIGH SCHOOL DISTRICTS

AGREEMENT REGARDING COLLECTION
AND ALLOCATION OF SCHOOL FACILITIES FEES

This Agreement is entered into by and between _____ School District (hereafter "High School District") and _____ School District (hereafter "Elementary District") and for reference purposes is dated as of [Date.]

RECITALS

A. High School District and Elementary District have common territorial jurisdiction.

B. Residential growth in the common territory has caused a need for additional elementary and high school facilities now and/or in the future.

C. Elementary District [adopted] [increased] school facilities fees in [Month, Year].

D. High School District [adopted] [increased] school facilities fees in [Month, Year].

E. Education Code section 17623 requires the two districts to enter into an agreement specifying the allocation of fees and the duration of the agreement.

F. [If applicable: _____ District has developed expertise in collecting school facilities fees, and is willing to collect the fees on behalf of _____ School District.]

G. [If applicable: Developers in the common territory will benefit from having one location at which school facilities fees must be paid.]

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AGREEMENT

Now, therefore, the parties agree as follows:

1. The currently authorized fee [of $_____] per square foot of residential development shall be allocated as follows:

High School District $_____ per square foot
Elementary District $_____ per square foot
[or: _____% to High School District and _____% to Elementary School District]

2. The currently authorized fee [of $0.___] per square foot of commercial/industrial development shall be allocated as follows:

High School District $_____ per square foot
Elementary District $_____ per square foot
[or: _____% to High School District and _____% to Elementary School District]

Pursuant to Government Code section 65995, the State Allocation Board may increase the maximum fee during the term of this Agreement. If the maximum fee is increased and either or both districts take action to increase fees, any such increase, if effective during the term of this agreement, shall be allocated based on the same percentage to the High School District and to the Elementary School District as is reflected in the allocation identified above [or as follows:_____.]

3. [If applicable: _____ District shall collect the fee for both districts. _____ District shall take such steps as are deemed necessary to enable developers to present to the appropriate building department certification of compliance with both districts' fees.]

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4. [If applicable: _____ District shall establish a separate account or fund for fees belonging to _____ School District, and shall transmit fees collected on behalf of _____ School District to _____ School District once each month, or more often at the discretion of _____ District. Any interest accrued during the time the funds are in the accounts of _____ District may be kept by _____ District; provided, however, that the interest may be transferred only to _____ District's separate capital facilities account or fund, as required by Government Code section 66006.

5. _____ District shall not impose a service charge for collecting the fees on behalf of _____ School District [or: shall impose a service charge for collecting the fees on behalf of _____ School District as follows: (note: generally should not exceed 3% of the collected fees).]

6. This Agreement shall become effective on [Date] and shall expire on [Date]. This Agreement is intended to expire on [Date] so that the parties can renegotiate the allocation of fees after that date, if necessary, based on any changes in the costs of construction, residential growth on each of the districts, and any other relevant factors.

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7. This Agreement shall not be applicable to alternative amounts imposed by either or both the Elementary or the High School Districts pursuant to Government Code sections 65995.5 or 65995.7 ("Level 2" or "Level 3" fees). In the event that either or both districts adopt Level 2 or Level 3 fees, the districts shall agree on how fees will be collected thereafter.

_____	_____
[Name] Elementary School District	[Name] High School District
_____	_____
[Name] Superintendent	[Name] Superintendent
_____	_____
Approved by the Governing Board [Date]	Approved by the Governing Board [Date]

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L1-13. APPEAL OF COMMERCIAL/INDUSTRIAL FEES

SAMPLE BOARD REGULATION

An applicant for a commercial or industrial building permit may challenge the fee by complying with the procedure below:

1. Grounds for appeal may include a claim that the project was improperly included in a particular category of commercial/industrial development, or that the employee generation or pupil generation factors utilized by the district are inaccurate as applied to the project.
2. The applicant shall provide a clear and concise written statement of the basis for the appeal and all documentation to support the appeal.
3. The Superintendent or his/her designee shall within thirty (30) days of receipt of the appeal review all documentation submitted in support of the appeal and make a recommendation to the Governing Board to accept or deny the appeal.
4. The Governing Board shall schedule a hearing on the appeal within sixty (60) days of receipt by the District.
5. The party appealing the fee shall bear the burden of establishing that the fee is improper.
6. In making its determination, the Board shall consider the original documentation presented by the District in support of establishing the fee, the documentation submitted to the Superintendent by the applicant in support of the challenge to the fee, the Superintendent's recommendation, and any documentation submitted by the District staff or consultants as a rebuttal.
7. The Board's decision shall be submitted in writing to the applicant within five (5) days of its adoption by the Board.

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L1-14. CERTIFICATION OF FEE PAYMENT - LEVEL 1 FEES

[name] SCHOOL DISTRICT

CERTIFICATION OF COMPLIANCE/PAYMENT OF DEVELOPER FEES

I. APPLICANT (Complete)

_____
DEVELOPER/OWNER

_____
DBA (NAME OF BUSINESS)

_____
STREET ADDRESS

_____
CITY STATE ZIP

_____
CONTRACTOR'S LICENSE NO.

_____
CONSTRUCTION LOCATION

_____
STREET ADDRESS

_____
CITY STATE ZIP

_____
OR IF NO STREET ADDRESS SITE LEGAL DESCRIPTION

_____
BUILDING PERMIT APPLICATION NUMBER(S)

_____
CONSTRUCTION TYPE: (COMPLETE AS APPROPRIATE) (AS PER APPROVED PLAN CHECK)

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RESIDENTIAL

_____ Square Footage of Assessable Space

COMMERCIAL OR INDUSTRIAL

_____ Square Footage of Assessable Space

TO THE DEVELOPER/OWNER/DESIGNEE

YOU ARE HEREBY NOTIFIED THAT YOU HAVE NINETY (90) DAYS FROM THE DATE OF PAYMENT OF THE FEES IDENTIFIED HEREIN TO FILE A PROTEST AGAINST THE IMPOSITION OF THESE FEES PURSUANT TO GOVERNMENT CODE SECTION 66020.

The undersigned certifies under penalty of perjury that:

1. The above information is correct and true to the best of my knowledge and that I will file an amended certification of payment and pay the additional fee if I request an increase in the square footage after the building permit has been issued or if the initial determination of square footage is found to be incorrect.

2. I am the developer/owner of the above described project(s) or am authorized to sign on the developer/owner's behalf.

_____

Signature of Developer / Owner / Designee Date

_____

Telephone No.

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II. BUILDING DEPARTMENT (Complete)

I state that to the best of my knowledge and understanding of applicable laws, in regards to the application for building permit submitted herewith that the square footage of the proposed project is:

_____ Square Footage	_____ Square Footage
Residential Assessable Space	Commercial or Industrial Assessable Space

_____

Agent for Building Department Date

_____

County / City of Telephone No.

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III. [name] SCHOOL DISTRICT (Complete)

This is to certify that the applicant listed in Section I has paid all applicable developer fee amounts determined by the information presented above and due to the [name] School District under provision of Government Code section 65995 as follows: _____ Square Footage of Assessable Space x $_____ Applicable Fee = $_____. The payment of these fees is a prerequisite to the issuance of a building permit.

AGENT FOR RECEIPT NO. DATE

[name]
[title]
[name] School District

TO BE VALID THIS CERTIFICATION MUST BE ACCOMPLISHED BY A VALIDATED [name] SCHOOL DISTRICT RECEIPT SHOWING THE NUMBER OF SQUARE FEET AND THE AMOUNT PAID.

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L2-1. COURTESY LETTER TO DEVELOPERS - LEVEL 2 (OR LEVEL 3) FEES

[RETYPE ON DISTRICT LETTERHEAD]
[DATE]

Developer
Business Name
Address
City, State, Zip Code

Re: Developer Fees for School Facilities

Dear _____:

This letter is being sent to you as a courtesy to inform you that the [insert name] School District will be considering the adoption of alternative developer fees ("Level 2" or "Level 3" fees) on residential development within the District. These fees will be used to fund the construction and reconstruction of school facilities.

The school facilities needs analysis supporting the need for developer fees for school facilities will be available approximately [insert date]. We would be pleased to meet with you and discuss the proposed fees, if you are interested in doing so.

We anticipate that the school board will consider the needs analysis and fees at a board meeting in [insert month], and most likely on [insert specific date]. If you would like a written notice of the hearing, please file a written request with the undersigned for such mailed notice.

Very truly yours,

_____

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L2-2. NOTICE OF HEARING ON ADOPTION OF NEEDS ANALYSIS AND LEVEL 2 AND 3 FEES

NOTICE OF HEARING ON ADOPTION OF SCHOOL FACILITIES NEEDS ANALYSIS AND ADOPTION OF ALTERNATIVE SCHOOL FACILITIES FEES

NOTICE IS HEREBY GIVEN that at [time] on [date] at [place], the Governing Board of the [name] School District will hold a hearing to consider the adoption of a school facilities needs analysis pursuant to Government Code section 65995.6. Adoption of a needs analysis is a prerequisite to adopting alternative school facilities fees under Government Code sections 65995.5, 65995.6, and 65995.7.

The resolution to be considered, if adopted, would also adopt the alternative school facilities fee to be imposed on development within the boundaries of the District for the purpose of funding the construction or reconstruction of school facilities. This fee would apply to residential construction as provided by law.

The Government Board will also consider its exemption from the requirements of the California Environmental Quality Act ("CEQA") relative to the adoption of the fee and the adoption of a Notice of Exemption pursuant to Education Code section 17621, subd. (a).

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The [name] School District has made available to the public a copy of the proposed needs analysis. Members of the public may view the proposed needs analysis at the [office location, dates and times]. Interested parties may submit comments regarding the needs analysis, and the Governing Board will respond to any written comment

By:_____
[name, title]

Published: [dates]
[newspaper]

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L2-3. Agenda Statements - Level 2 and 3 Fees

HEARING ON ADOPTION OF SCHOOL FACILITIES NEEDS ANALYSIS AND ALTERNATIVE SCHOOL FACILITIES FEES AND ADOPTION OF CEQA NOTICE OF EXEMPTION

Consideration and possible adoption of Resolution to adopt School Facilities Needs Analysis, adoption of findings thereon, and adoption of alternative school facilities fees pursuant to Government Code sections 65995.5, 65995.6, and 65995.7. Such fees would become effective immediately upon adoption of the Resolution. Consideration and possible adoption of CEQA Notice of Exemption.

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L2-4. RESOLUTION IMPOSING LEVEL 2 AND 3 FEES; APPROVAL OF CEQA EXEMPTION

BEFORE THE GOVERNING BOARD OF THE [name] SCHOOL DISTRICT

[name] COUNTY, CALIFORNIA

In the Matter of	)	Resolution No. _____
	)	
THE ADOPTION OF	)	
ALTERNATIVE SCHOOL FACILITIES FEES	)	
AND APPROVAL OF CEQA EXEMPTION	)	
_____	)	

WHEREAS, Education Code section 17620 and Government Code sections 65995.5 and 65995.7, authorize a school district's governing board, after making certain findings, to establish fees to offset the cost of school facilities made necessary by residential construction ("Alternative Fees"); and

WHEREAS, [name] School District ("District") has undertaken a review of eligibility to establish the Alternative Fees; and

WHEREAS, the District is currently authorized to impose a fee of $_____ per square foot of residential development pursuant to Government Code section 65995 (the "Level 1 fee"), which shall be replaced by the Alternative Fees established in this Resolution; and

WHEREAS, the District has prepared an analysis entitled [name] dated [date] ("Needs Analysis") in accordance with the provisions of Government Code section 65995.6; and

WHEREAS, the District seeks to establish the Alternative Fees for the purpose of funding the construction and/or reconstruction of school facilities; and

WHEREAS, the Alternative Fees described herein will be used for construction and/or reconstruction of the District's school facilities; and

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WHEREAS, the District has submitted applications to the State Allocation Board of the State of California for new construction funding and the State Allocation Board has determined that the District has met the eligibility requirements for new construction funding; and

WHEREAS, in accordance with Government Code section 65995.6, the purpose of this Resolution is to adopt the Needs Analysis, and to declare the District's eligibility for and to establish fees under the provisions of Government Code sections 65995.5 and 65995.7, consistent with the information and data set forth in the Needs Analysis and upon such other information and documentation prepared by or on file with the District, as presented and described to the Governing Board of the [name] School District ("Board").

WHEREAS, Education Code section 17621 specifically exempts the adoption, increase, or imposition of any fee, charge, dedication or other requirement pursuant to Education Code section 17620 from the provisions of the California Environmental Quality Act ("CEQA") (Pub. Resources Code section 21000, et seq.; and

WHEREAS, upon a determination that the imposition of school facilities fees under Education Code section 17620 is exempt from CEQA, the District is entitled to file a Notice of Exemption with the County Clerk pursuant to California Code of Regulations, title 14, section 15062.

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NOW THEREFORE BE IT RESOLVED:

1. The Board hereby finds that prior to the adoption of this Resolution, the Board held a public hearing at its regular meeting of [date], at which oral and written presentations were made. Notice of the time and place of the public hearing were published in the [insert name] newspapers on [insert date], including a Statement that the Needs Analysis was available for public review at the [insert place].

2. The Board has determined that the District has submitted timely applications to the State Allocation Board for new construction funding, and the State Allocation Board has determined that the District has met the eligibility requirements for new construction funding.

3. The Board has determined the following related to establishing fees pursuant to Government Code sections 65995.5 and 65995.7: [Include at least **two** of the following four items; supply applicable details]

(A) Substantial enrollment of the District's pupils are on a multitrack, year-round schedule. [Provide details/percentages]

(B) The District has placed on the ballot in the previous four years a local general obligation bond to finance school facilities and the measure received at least 50 percent plus one of the votes cast. [Provide date of election, percentage of support for bond.]

(C) The District has incurred debt equivalent to greater than 15% of its bonding capacity. [If debt incurred in vote prior to November 4, 1998; or 30% of its bonding capacity if debt incurred in vote after November 4, 1998. Provide exact percentage, if possible.]

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(D) At least 20 percent of the teaching stations within the District are relocatable classrooms. [Provide exact percentage.]

4. Based on the foregoing, the District is eligible to levy alternative fees pursuant to Government Code sections 65995.5 and 65995.7.

5. The Board has reviewed the provisions of the Needs Analysis as they relate to proposed and potential residential development, the resulting school facilities needs, the cost thereof, and the available sources of revenue, and based thereon and upon all other written and oral presentations to the Board, the Board makes the following findings:

(A) The purpose of the fees is to provide adequate school facilities for the students of the District who will be generated by residential development in the District.

(B) The fees are to be used for construction and/or reconstruction of the District's facilities.

(C) There is a reasonable relationship between the need for the fees and the use of the fees, and the types of development projects on which the fees are imposed, in that residential development will generate students who will attend District schools, these students cannot be housed by the District without additional facilities and/or the reconstruction of existing facilities, and the fees will be used to fund portions of these facilities.

(D) There is a reasonable relationship between the amount of the fees and the cost of the facilities attributable to the developments upon which the fee is to be imposed, in that the

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square footage of these developments have a direct relationship to the number of students generated, and thus to the facilities which the District must add to accommodate these students.

(E) There exists in the District accounts a separate capital facilities account or fund, in accordance with the requirements of Government Code section 66006 into which fees collected pursuant to this Resolution shall be placed.

(F) There are no other adequate sources of funds to meet District school facilities needs due to residential development.

6. Based upon all available information, including but not limited to evidence presented at the public hearing on the matter, the Board finds that the Needs Analysis meets the requirements of Government Code section 65995.6 and is a suitable basis for establishing the Alternative Fees. The Board hereby approves and adopts the Needs Analysis as the basis for approving fees pursuant to Government Code sections 65995.5 and 65995.7.

7. Based upon information contained in the Needs Analysis and the foregoing findings, the Board hereby establishes new Alternative Fees to be levied against residential construction pursuant to Government Code section 65995.5, to be known as the "Level 2 Fee," in the amount of $\$$_____ per square foot of residential construction.

8. Pursuant to Government Code section 65995.7, when permitted, the District is authorized to establish a fee in excess of the Level 2 fee in the event that the State Allocation Board is no longer approving apportionments for new construction in accordance with Education Code section 17072.20 due to lack of funds available for new construction. At any time that the State

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Allocation Board has made the determination that such funds are no longer available, an increased alternative fee shall automatically be established when permitted, pursuant to the provisions of Government Code section 65995.7, which shall be known as the "Level 3 Fee," in the amount of $_____ per square foot of residential construction.

When permitted by law, the Level 3 Fee shall be placed into effect in lieu of the Level 2 fee by action of the Superintendent or designee, without need for any additional action by the Board.

9. The collection of Level 2 or, if applicable, Level 3 fee is not subject to the restriction set forth in Government Code section 66007, subdivision (a), but, pursuant to subdivision (b) of that statute, the fees are to be collected prior to issuance of building permits. Upon payment of the Level 2 or, if applicable, Level 3 fee, the District shall issue a Certificate of Compliance to the appropriate building department certifying that school fee requirements have been satisfied. [Note: if the District has an agreement with another local agency (i.e. a city, county, or another district) to collect its fees, replace the previous sentence with the following: "The Superintendent or his or her designee shall give notice to all cities and counties with jurisdiction over the territory of the District of the Board's action, in accordance with the requirements of Education Code sections 17620 and 17621, requesting that no building permits be issued following the date of this Resolution, without the Level 2 or, if applicable, Level 3 fee, having been collected by the [local agency].".]

10. The District's Level 2 or, if applicable, Level 3 fees shall be effective for a period of no longer than one year following the adoption date of this Resolution as set forth below.

11. Should the District's Level 2 or, if applicable, Level 3 fee be legally invalidated, the Level 1 fee previously adopted pursuant to Government Code section 65995 and replaced by the fee levied in this Resolution shall immediately become effective.

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12. The policies set forth in this Resolution are not exclusive, and the Board reserves the authority to undertake other or additional methods to finance school facilities as are permitted by law or through mutual agreement with other parties.

13. The Board hereby orders that the Level 2 fee established pursuant to this Resolution shall take effect immediately; the Level 3 fee shall take effect at any time that the State Allocation Board has made the determination that state funds are no longer available, pursuant to the provisions of Government Code section 65995.7, or as set forth in any subsequent legislation affecting the same.

14. The Secretary of the Board is hereby directed to forward copies of this Resolution, together with all relevant supporting documentation and a map clearly indicating the boundaries of the area subject to the fee, to the local planning agencies having jurisdiction within the District's boundaries.

AND BE IT FURTHER RESOLVED, that the District's administration is authorized to make expenditures and to incur obligations of the fees for the purposes authorized by law.

AND BE IT FURTHER RESOLVED, that the Board hereby finds that the adoption of fees hereunder is statutorily exempt from the requirements of CEQA pursuant to Education Code section 17621.

AND BE IT FURTHER RESOLVED, that this Board hereby approves the CEQA Notice of Exemption regarding the imposition of fees and directs the Superintendent, or his or her designee, to file the CEQA Notice of Exemption, together with a certified copy of this Resolution, with the County Clerk of each County in which the District shall collect fees pursuant to Education Code section 17621.

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This Resolution is adopted this _____ day of _____, _____, by the following vote:

AYES: _____

NOES: _____

ABSTENTIONS: _____

ABSENT: _____

_____
Clerk of the Governing Board

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L2-6. NOTICE OF CEQA EXEMPTION - LEVEL 2 AND 3 FEES

NOTICE OF EXEMPTION

TO: County Clerk
County of _____

FROM: _____
School District

_____
PROJECT TITLE

_____
PROJECT LOCATION - SPECIFY

_____
PROJECT LOCATION – CITY PROJECT LOCATION - COUNTY

_____
DESCRIPTION OF NATURE, PURPOSE, AND BENEFICIARIES OF PROJECT

_____
NAME OF PUBLIC AGENCY APPROVING PROJECT

_____
NAME OF PERSON OR AGENCY CARRYING OUT PROJECT

EXEMPT STATUS: (CHECK ONE)

_____ Ministerial (14 Cal. Code Regs., § 15268.)
_____ Emergency Declared by Governor (14 Cal. Code Regs, §15269, subd. (a).)
_____ Emergency Project (14 Cal. Code Regs, § 15269, subds. (b) and (c).)
_____ Categorical Exemption. State type and section number:
_____ Other. State basis:

_____
REASONS WHY PROJECT IS EXEMPT

_____
CONTACT PERSON AREA CODE TELEPHONE EXTENSION

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IF FILED BY APPLICANT:

1. Attach certified document of exemption finding.

2. Has a Notice of Exemption been filed by the public agency approving the project?

   Yes ___ No ___ N/A___

Date received for filing
(To be completed by the County Clerk.)

_____
Signature

_____
Title (District CEQA Officer)

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L2-7. COMPLETED NOTICE OF CEQA EXEMPTION - LEVEL 2 AND 3 FEES

NOTICE OF CEQA EXEMPTION

TO: County Clerk
County of _____

FROM: _____
School District

Imposing Developer Fees
PROJECT TITLE

PROJECT LOCATION - SPECIFY

PROJECT LOCATION - CITY

PROJECT LOCATION - COUNTY

Adoption of an alternative fee against construction within the boundaries of the district for the purpose of funding the construction and reconstruction of school facilities pursuant to Government Code sections 65995.5 and 65995.7.
DESCRIPTION OF NATURE, PURPOSE, AND BENEFICIARIES OF PROJECT

NAME OF PUBLIC AGENCY APPROVING PROJECT

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT

EXEMPT STATUS: (CHECK ONE)

_____	Ministerial (14 Cal. Code Regs., § 15268)
_____	Emergency Declared by Governor (14 Cal. Code Regs, §15269, subd. (a))
_____	Emergency Project (14 Cal. Code Regs, § 15269, subds. (b) and (c))
_____	Categorical Exemption. State type and section number:
X	Other. State basis: Statutory exemption under Government Code § 65995.6, subd. (g).

Adoption of school facilities fees are exempt from CEQA under applicable statutory law.
REASONS WHY PROJECT IS EXEMPT

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CONTACT PERSON AREA CODE TELEPHONE EXTENSION

IF FILED BY APPLICANT:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project?

   Yes ___ No ___ N/A X

Date received for filing
(To be completed by the County Clerk.)

Signature

Title (District CEQA Officer)

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L2-8. LETTER TO BUILDING DEPARTMENT - LEVEL 2 AND 3 FEES

[DISTRICT LETTERHEAD]

[DATE SHOULD BE NEXT DAY AFTER BOARD ADOPTS FEES]

Building Department
[City/County] of _____
[Address]
[City, State zip]

Re: Adoption of School District Fees

Dear _____:

At its meeting of _____, _____, the governing board of the _____ School District approved a resolution adopting alternative school facilities fees pursuant to Government Code sections 65995.5, et seq. These fees will be $_____ per square foot of residential development. These fees are commonly known as "Level 2" or "Level 3" fees.

A copy of the Board's resolution is attached. The resolution is accompanied by a copy of the supporting documentation and a map indicating the boundaries of the area subject to the fees.

The collection of the fee is not subject to the restriction set forth in Government Code section 66007, subdivision (a), but, pursuant to subdivision (b) of that statute, the fees are to be collected prior to issuance of building permits. As shown in the enclosed documentation, the District will use the fees for the purpose of funding the construction and reconstruction of school facilities; all fees will be placed in the District's restricted capital facilities fund; the Board has authorized expenditure of the fees; and the Board has adopted a proposed construction plan for the facilities to be built with the fees.

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These fees became effective immediately upon adoption.

Please inform your staff that, pursuant to Government Code section 66007, the building department may not issue a building permit within the District effective immediately, without certification from the District that the fees have been paid to the District. [Note: if the District has an agreement with another local agency (i.e. a city, county, or another district) to collect its fees, delete the clause, starting from the word "without", in the previous sentence, and replace with the following: "without the fee specified herein having been paid to the [local agency].".]

Thank you for your cooperation. If you have any questions, please contact [District person] at [phone number].

Very truly yours,

[Name]

[NOTE: THIS LETTER SHOULD BE SENT CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR, IF THE LETTER IS HAND-DELIVERED, A COPY SHOULD BE TAKEN TO AND STAMPED BY THE BUILDING DEPARTMENT TO SHOW RECEIPT, AND KEPT BY THE DISTRICT.]

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L2-9. CERTIFICATION OF FEE PAYMENT

[name] SCHOOL DISTRICT
CERTIFICATION OF COMPLIANCE/PAYMENT OF DEVELOPER FEES

I. APPLICANT (Complete)

_____
DEVELOPER/OWNER

_____
DBA (NAME OF BUSINESS)

_____
STREET ADDRESS

_____
CITY STATE ZIP

_____
CONTRACTOR'S LICENSE NO.

_____
CONSTRUCTION LOCATION

_____
STREET ADDRESS

_____
CITY STATE ZIP

_____
OR IF NO STREET ADDRESS SITE LEGAL DESCRIPTION

_____
BUILDING PERMIT APPLICATION NUMBER(S)

_____
CONSTRUCTION TYPE: (COMPLETE AS APPROPRIATE) (AS PER APPROVED PLAN CHECK)
_____ Square Footage of Assessable Residential Space

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YOU ARE HEREBY NOTIFIED THAT YOU HAVE NINETY (90) DAYS FROM THE DATE OF PAYMENT OF THE FEES IDENTIFIED HEREIN TO FILE A PROTEST AGAINST THE IMPOSITION OF THESE FEES PURSUANT TO GOVERNMENT CODE SECTION 66020.

The undersigned certifies under penalty of perjury that:

1. The above information is correct and true to the best of my knowledge and that I will file an amended certification of payment and pay the additional fee if I request an increase in the square footage after the building permit has been issued or if the initial determination of square footage is found to be incorrect.

2. I am the developer/owner of the above described project(s) or am authorized to sign on the developer/owners's behalf.

Signature of Developer / Owner / Designee Date

Telephone No.

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II. BUILDING DEPARTMENT (Complete)

I state that to the best of my knowledge and understanding of applicable laws, in regards to the application for building permit submitted herewith that the square footage of the proposed project is:

_____ Square Footage Residential Assessable Space

Agent for Building Department Date

County / City of Telephone No.

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III. [name] SCHOOL DISTRICT (Complete)

This is to certify that the applicant listed in Section I has paid all developer fee amounts determined by the information presented above and due to the [name] School District under provision of Government Code section 65995. The payment of these fees is a prerequisite to the issuance of a building permit.

AGENT FOR RECEIPT NO. DATE

[name]
[title]
[name] School District

TO BE VALID THIS CERTIFICATION MUST BE ACCOMPLISHED BY A VALIDATED [name] SCHOOL DISTRICT RECEIPT SHOWING THE NUMBER OF SQUARE FEET AND THE AMOUNT PAID.

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A-1. NOTICE OF ACCOUNTING MEETING

NOTICE OF MEETING – PUBLIC REPORT OF INFORMATION REGARDING REPORTING ON AND CONSIDERING FINDINGS REGARDING CAPITAL FACILITIES FEES FOR THE [YEAR] FISCAL YEAR [OPTIONAL: AND THE PRIOR FOUR FISCAL YEARS]

NOTICE IS HEREBY GIVEN that at [time] on [date] at [place], the Governing Board of the [name] School District will consider the adoption of a Resolution in the Matter of the [name of accounting report], Pursuant to Government Code sections 66001 [and 66006].

Any interested party may make an oral or written presentation at the meeting.

[Name] School District has made available to the public information regarding capital facilities fees received, deposited, invested and expended by the District, particularly through a document entitled "[name]" Such information may be obtained at [address] or by contacting [name] at [phone number].

By: _____ Dated: _____
[name]
[title]

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A-2. AGENDA STATEMENT - ACCOUNTING

Annual Accounting

Consideration and possible adoption of Resolution regarding the public report of information regarding capital facilities fees for the [year] fiscal year pursuant to Government Code section and 66006.

5-Year Accounting

Consideration and possible adoption of Resolution regarding capital facilities fees for the [year] - [year] fiscal years, and findings thereon, pursuant to Government code section 66001.

Combined Annual and 5-Year Accounting

Consideration and possible adoption of Resolution regarding the public report of information regarding capital facilities fees for the [year] fiscal year and regarding capital facilities for the [year] - [year] fiscal years, and findings thereon, pursuant to Government Code sections 66001 and 66006.

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A3. RESOLUTION ADOPTING ACCOUNTING [Note: This form addresses both the annual and 5 year reporting requirements]

BEFORE THE GOVERNING BOARD
OF THE [insert name] SCHOOL DISTRICT
[insert name] COUNTY, CALIFORNIA

In the Matter of the Public Report of Information Regarding Capital Facilities Fees for the [year] Fiscal Year, and Regarding Capital Facilities Fees for the [Year]-[Year] Fiscal Years and Findings Thereon, Pursuant to Government Code Sections 66001 and 66006	)	Resolution No. _____

WHEREAS, [name] School District ("District") has received and expended reportable capital school facilities fees paid on new commercial and industrial construction, new residential construction and other residential construction as authorized pursuant to Education Code section 17620, et seq. and Government Code section 65995, et seq. ("Developer Fees"); and

WHEREAS, said Developer Fees have been deposited in a separate capital facilities account ([name of account]) pursuant to Government Code section 66006, subdivision (a), in a manner to avoid commingling of Developer Fees with other revenues and funds of the District, except for temporary investments; and

WHEREAS, said Developer Fees expended for the sole purpose for which they were collected; and

WHEREAS, Government Code section 66006, subdivision (b)(1), provides that the District shall, within 180 days after the last day of each fiscal year, make available to the public the following information regarding Developer Fees for the fiscal year:

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(A) A brief description of the type of fee in the account or fund;

(B) The amount of the fee;

(C) The beginning and ending balance of the account or fund;

(D) The amount of the fees collected and the interest earned;

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with the fees;

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in Government Code section 66001, subdivision (a)(2), and the public improvement remains incomplete;

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan; and

(H) The amount of refunds made pursuant to Government Code section 66001, subdivision (e), and any allocations pursuant to Government Code section 66001, subdivision (f); and

WHEREAS, Government Code section 66001, subdivision (d), provides that for the fifth fiscal year following the first deposit into the account or fund of Developer Fees, and every five years

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thereafter, the District shall make all of the following findings with respect to that portion of the account or fund remaining unexpended, whether committed or uncommitted:

(A) Identify the purpose to which the fee is to be put;

(B) Demonstrate a reasonable relationship between the fee and the purpose for which it is charged;

(C) Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements identified in Government Code section 66001, subdivision (a)(2); and

(D) Designate the approximate dates on which the funding referred to in Government Code section 66001, subdivision (d)(1)(C), is expected to be deposited into the appropriate account or fund; and

WHEREAS, pursuant to Government Code section 66001, subdivision (e), except as otherwise provided by law, when sufficient funds have been collected, as determined pursuant to Government Code section 66006, subdivision (b)(1)(F), to complete financing on an incomplete public improvement identified in Government Code section 66001, subdivision (a)(2), and the public improvements remain incomplete, the District must identify, within 180 days of the determination that sufficient funds have been collected, an approximate date by which the construction of the public improvement will be commenced, or must refund to the then current record owner or owners of the lots or units, as identified on the last equalized assessment role, of the development project or projects on a prorated basis, the unexpended portion of the fee, and any interest accrued thereon; and

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WHEREAS, pursuant to Government Code section 66001, subdivision (d), those findings required by that section must be made in connection with the public information required by Government Code section 66006, subdivision (b); and

WHEREAS, Government Code section 66006, subdivision (b)(2) provides that the District must review the information made available to the public pursuant to Section 66006 at a regularly scheduled public meeting occurring not less than 15 days after the information is made public; and

WHEREAS, that information required by Government Code sections 66001 and 66006, including but not limited to a report entitled the "[name of report]" ("Public Report"), was made available to the public on or before [date], more than 15 days prior to the hearing held on [date] before the Governing Board of the [name] School District ("Board"); and

WHEREAS, notice of the availability of the Public Report was provided on or before [date] to the extent required by Government Code section 66006, subdivision (b)(2); and

WHEREAS, the Public Report was presented to the Board at its duly noticed public meeting of [date].

NOW THEREFORE BE IT RESOLVED that the Board receives, incorporates by reference, approves and adopts the Public Report;

AND BE IT FURTHER RESOLVED that the Board makes the following findings:

1. That the above recitals are true and correct.

2. That, pursuant to Government Code section 66001, subdivision (d) and Government Code section 66006, subdivisions (b)(1) and (b)(2), the District has made available to the public and to the

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Board the requisite information and proposed findings concerning Developer Fees received, deposited, invested and expended by the District.

3. That the Board, at its regularly scheduled public meeting of [date], has publicly reviewed the following information as contained in the Public Report pursuant to Government Code section 66006, subdivision (b)(1), as required by Government Code section 66006, subdivision (b)(2):

(A) A brief description of the type of fee in the account or fund;

(B) The amount of the fee;

(C) The beginning and ending balance of the account or fund;

(D) The amount of the fees collected and the interest earned;

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with the fees;

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in Government Code section 66001, subdivision (a)(2), and the public improvement remains incomplete;

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan; and

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(H) The amount of refunds made pursuant to Government Code section 66001, subdivision (e), and any allocations pursuant to Government Code section 66001, subdivision (f).

4. That the findings set forth in the Public Report as provided by Government Code section 66001, subdivision (d), regarding the following subjects are hereby adopted by the Board:

(A) Identify the purpose to which the fee is to be put;

(B) Demonstrate a reasonable relationship between the fee and the purpose for which it is charged;

(C) Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements identified in Government Code section 66001, subdivision (a)(2); and

(D) Designate the approximate dates on which the funding referred to in Government Code section 66001, subdivision (d)(1)(C), is expected to be deposited into the appropriate account or fund.

5. That all Developer Fees have been received, deposited, invested and expended in compliance with all applicable laws, including but not limited to Education Code section 17620, et seq., Government Code section 65995, et seq., and Government Code section 66000, et seq.

6. [If applicable: That no refunds or allocations of Developer Fees are required pursuant to Government Code section 66001, subdivision (e).]

7. That the District is in compliance with the requirements of Government Code sections 66001 and 66006.

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This Resolution is adopted this ____ day of _____, ____, by the following vote:

AYES: _____

NOES: _____

ABSTENTIONS: _____

ABSENT: _____

_____

Clerk of the Governing Board

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BUSINESS AND PROFESSIONS CODE SECTION 11010.05

SENIOR CITIZEN HOUSING DEVELOPMENTS; PUBLIC REPORT FOR SUBDIVISION PHASE; APPLICATION

(a) A person who proposes to create a senior citizen housing development, as defined in Section 51.3 or 51.11 of the Civil Code, or an intergenerational housing development, as defined in Section 51.3.5 of the Civil Code, shall include in the application for a public report a complete statement of the restrictions on occupancy that are to be applicable in the development. Any public report issued for a senior housing development or an intergenerational housing development shall also include a complete statement of the restrictions on occupancy to be applicable in the development.

(b) This section shall become operative on July 1, 2001, and shall apply to all applications for a public report for a senior housing development submitted to the department on or after July 1, 2001.

(c) This section shall be operative for, and shall apply to all applications for a public report submitted to the department for, intergenerational housing developments on and after January 1, 2022.

CIVIL CODE SECTION 51.3

HOUSING; AGE LIMITATIONS; NECESSITY FOR SENIOR CITIZEN HOUSING

(a) The Legislature finds and declares that this section is essential to establish and preserve specially designed accessible housing for senior citizens. There are senior citizens who need special living environments and services, and find that there is an inadequate supply of this type of housing in the state.

(b) For the purposes of this section, the following definitions apply:

(1) "Qualifying resident" or "senior citizen" means a person 62 years of age or older, or 55 years of age or older in a senior citizen housing development.

(2) "Qualified permanent resident" means a person who meets both of the following requirements:

(A) Was residing with the qualifying resident or senior citizen prior to the death, hospitalization, or other prolonged absence of, or the dissolution of marriage with, the qualifying resident or senior citizen.

(B) Was 45 years of age or older, or was a spouse, cohabitant, or person providing primary physical or economic support to the qualifying resident or senior citizen.

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(3) "Qualified permanent resident" also means a disabled person or person with a disabling illness or injury who is a child or grandchild of the senior citizen or a qualified permanent resident as defined in paragraph (2) who needs to live with the senior citizen or qualified permanent resident because of the disabling condition, illness, or injury. For purposes of this section, "disabled" means a person who has a disability as defined in subdivision (b) of Section 54. A "disabling injury or illness" means an illness or injury which results in a condition meeting the definition of disability set forth in subdivision (b) of Section 54.

(A) For any person who is a qualified permanent resident under this paragraph whose disabling condition ends, the owner, board of directors, or other governing body may require the formerly disabled resident to cease residing in the development upon receipt of six months' written notice; provided, however, that the owner, board of directors, or other governing body may allow the person to remain a resident for up to one year after the disabling condition ends.

(B) The owner, board of directors, or other governing body of the senior citizen housing development may take action to prohibit or terminate occupancy by a person who is a qualified permanent resident under this paragraph if the owner, board of directors, or other governing body finds, based on credible and objective evidence, that the person is likely to pose a significant threat to the health or safety of others that cannot be ameliorated by means of a reasonable accommodation; provided, however, that the action to prohibit or terminate the occupancy may be taken only after doing both of the following:

(i) Providing reasonable notice to and an opportunity to be heard for the disabled person whose occupancy is being challenged, and reasonable notice to the coresident parent or grandparent of that person.

(ii) Giving due consideration to the relevant, credible, and objective information provided in the hearing. The evidence shall be taken and held in a confidential manner, pursuant to a closed session, by the owner, board of directors, or other governing body in order to preserve the privacy of the affected persons. The affected persons shall be entitled to have present at the hearing an attorney or any other person authorized by them to speak on their behalf or to assist them in the matter.

(4) "Senior citizen housing development" means a residential development developed, substantially rehabilitated, or substantially renovated for, senior citizens that has at least 35 dwelling units. Any senior citizen housing development which is required to obtain a public report under Section 11010 of the Business and Professions Code and which submits its application for a public

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report after July 1, 2001, shall be required to have been issued a public report as a senior citizen housing development under Section 11010.05 of the Business and Professions Code. No housing development constructed prior to January 1, 1985, shall fail to qualify as a senior citizen housing development because it was not originally developed or put to use for occupancy by senior citizens.

(5) "Dwelling unit" or "housing" means any residential accommodation other than a mobile home.

(6) "Cohabitant" refers to persons who live together as spouses or persons who are domestic partners within the meaning of Section 297 of the Family Code.

(7) "Permitted health care resident" means a person hired to provide live-in, long-term, or terminal health care to a qualifying resident, or a family member of the qualifying resident providing that care. For the purposes of this section, the care provided by a permitted health care resident must be substantial in nature and must provide either assistance with necessary daily activities or medical treatment, or both.

A permitted health care resident shall be entitled to continue his or her occupancy, residency, or use of the dwelling unit as a permitted resident in the absence of the senior citizen from the dwelling unit only if both of the following are applicable:

(A) The senior citizen became absent from the dwelling unit due to hospitalization or other necessary medical treatment and expects to return to his or her residence within 90 days from the date the absence began.

(B) The absent senior citizen or an authorized person acting for the senior citizen submits a written request to the owner, board of directors, or governing board stating that the senior citizen desires that the permitted health care resident be allowed to remain in order to be present when the senior citizen returns to reside in the development. Upon written request by the senior citizen or an authorized person acting for the senior citizen, the owner, board of directors, or governing board shall have the discretion to allow a permitted health care resident to remain for a time period longer than 90 days from the date that the senior citizen's absence began, if it appears that the senior citizen will return within a period of time not to exceed an additional 90 days.

(c) The covenants, conditions, and restrictions and other documents or written policy shall set forth the limitations on occupancy, residency, or use on the basis of age. Any such limitation shall not be more exclusive than to require that one person in residence in each dwelling unit may be required to be a senior citizen and that each other resident in the same dwelling unit may be required to be a qualified permanent resident, a permitted health care resident, or a person under 55 years of age whose occupancy is permitted under subdivision (h) of this section or under subdivision (b) of Section 51.4. That

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limitation may be less exclusive, but shall at least require that the persons commencing any occupancy of a dwelling unit include a senior citizen who intends to reside in the unit as his or her primary residence on a permanent basis. The application of the rules set forth in this subdivision regarding limitations on occupancy may result in less than all of the dwellings being actually occupied by a senior citizen.

(d) The covenants, conditions, and restrictions or other documents or written policy shall permit temporary residency, as a guest of a senior citizen or qualified permanent resident, by a person of less than 55 years of age for periods of time, not less than 60 days in any year, that are specified in the covenants, conditions, and restrictions or other documents or written policy.

(e) Upon the death or dissolution of marriage, or upon hospitalization, or other prolonged absence of the qualifying resident, any qualified permanent resident shall be entitled to continue his or her occupancy, residency, or use of the dwelling unit as a permitted resident. This subdivision shall not apply to a permitted health care resident.

(f) The condominium, stock cooperative, limited-equity housing cooperative, planned development, or multiple-family residential rental property shall have been developed for, and initially been put to use as, housing for senior citizens, or shall have been substantially rehabilitated or renovated for, and immediately afterward put to use as, housing for senior citizens, as provided in this section; provided, however, that no housing development constructed prior to January 1, 1985, shall fail to qualify as a senior citizen housing development because it was not originally developed for or originally put to use for occupancy by senior citizens.

(g) The covenants, conditions, and restrictions or other documents or written policies applicable to any condominium, stock cooperative, limited-equity housing cooperative, planned development, or multiple-family residential property that contained age restrictions on January 1, 1984, shall be enforceable only to the extent permitted by this section, notwithstanding lower age restrictions contained in those documents or policies.

(h) Any person who has the right to reside in, occupy, or use the housing or an unimproved lot subject to this section on January 1, 1985, shall not be deprived of the right to continue that residency, occupancy, or use as the result of the enactment of this section.

(i) The covenants, conditions, and restrictions or other documents or written policy of the senior citizen housing development shall permit the occupancy of a dwelling unit by a permitted health care resident during any period that the person is actually providing live-in, long-term, or hospice health care to a qualifying resident for compensation. For purposes of this subdivision, the term "for compensation" shall include provisions of lodging and food in exchange for care.

(j) Notwithstanding any other provision of this section, this section shall not apply to the County of Riverside.

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EDUCATION CODE SECTION 17017.5

APPROVAL OF APPLICATIONS; ADDITIONAL APPROVALS; FIVE-YEAR PLANS; YEAR-ROUND EDUCATIONAL PROGRAM

(a) The board may approve, in whole or in part, an application submitted by a school district under Section 17017 or 17020 in an amount not exceeding the amount applied for as the board may deem appropriate.

(b) The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make apportionments of project funding not exceeding in the aggregate the total amount determined by the board under subdivision (a) for the portion or portions of the project for which the board determines the district is ready to proceed. Subsequent to the board's approval of a project, any requirement imposed by the board that the compliance of the project with building cost or area standards and related guidelines adopted by the board be established as a condition of the apportionment of funds under this chapter shall be satisfied, as to a project for a self-certifying district, by the certification by the district of that compliance. In addition, the board shall not require that estimates of average daily attendance be updated as to that project more often than once every 12 months subsequent to the board's approval of the project. The self-certifying district shall maintain documentation of the compliance certified pursuant to this subdivision as may be required by the board, and that compliance shall be subject to subsequent audit as the board may direct.

(c) Whenever a district files an application, the board shall require the district to submit to the board and the State Department of Education a five-year plan for construction and rehabilitation of school facilities, and to obtain the written approval of the department that the plan complies with standards that are established by the department for this purpose to ensure that the applicant district has adequately anticipated its school facilities needs and identified funding sources as necessary to meet those needs. The plan may be adjusted to reflect adjusted growth targets.

(d) The board shall not approve any application under this chapter after January 1, 1990, unless accompanied by a study examining the feasibility of implementing in the district a year-round multi-track educational program that is designed to increase pupil capacity in the district or in overcrowded high school attendance areas by at least 20 percent.

(e) The board may waive subdivision (d) or the requirements of Section 17017.7, or both, if a school district demonstrates that these requirements will result in a particular educational or financial hardship to the district. Further, the board shall waive subdivision (d), if it finds that there is clear hardship to a district due to declining enrollment or no growth.

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EDUCATION CODE SECTION 17071.10

ONE-TIME CALCULATIONS; REPORT ON BUILDING CAPACITY; NEWLY ORGANIZED DISTRICTS

(a) The calculation determined by this article shall be made on a one-time basis, and will be used as the baseline for eligibility determinations pursuant to this chapter.

(b) Each school district that elects to participate in the new construction program pursuant to this chapter shall submit to the board a one-time report of existing school building capacity.

(c) Notwithstanding subdivisions (a) and (b), a school district newly formed, reorganized, or affected by reorganization, pursuant to an election that occurred on or after November 4, 1998, shall calculate or recalculate its existing school building capacity pursuant to regulations adopted by the State Allocation Board.

EDUCATION CODE SECTION 17071.25

EXISTING SCHOOL BUILDING CAPACITY

(a) The existing school building capacity in the applicant school district or, where appropriate, in the attendance area, at the time of initial application shall be calculated pursuant to the following formula:

(1) Identify by grade level all permanent teaching stations existing in the school district or, where appropriate, the attendance area. For the purposes of this section, "teaching station" means any space that was constructed or reconstructed to serve as an area in which to provide pupil instruction, but shall not include portable buildings, except as provided in Section 17071.30.

(2) (A) The assumed capacity of each calculated teaching station pursuant to paragraph (1) shall be 25 pupils for each teaching station used for kindergarten or for grades 1 to 6, inclusive, and 27 pupils for each teaching station used for grades 7 to 12, inclusive.

(B) On or after January 1, 2000, the board may adopt or amend regulations adjusting the assumed capacity set forth in this subparagraph as appropriate for each teaching station used for non-severe or severe special day class purposes after considering the recommendations of the Legislative Analyst pursuant to Section 17072.15. These special day class capacity adjustments and any adjustment of existing school capacity related to changes in the assumed capacity of special day class teaching stations shall be approved by the Director of Finance prior to implementation.

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(C) On or after January 1, 2001, the board may adopt regulations establishing assumed capacity standards after consideration of the recommendations developed by the Director of General Services for continuation high school, community day school, county community school, and county community day school, teaching stations pursuant to Section 17072.17. Teaching station assumed capacity adjustments pursuant to these regulations and any other adjustments of existing school capacity related to changes in the assumed capacity of continuation high school, community day school, county community school, and county community day school, teaching stations shall be approved by the Director of Finance prior to implementation.

(3) Multiply the assumed capacity of each teaching station as specified in paragraph (2) by the number of teaching stations calculated under paragraph (1).

(4) The result of this computation shall be the number of pupils housed by grade level in the existing school building capacity of the applicant school district.

(b) The existing school building capacity of the applicant school district calculated under this section shall not include, in any school operated on a year-round schedule, any teaching station that has been in continuous use during the preceding five-year period primarily for the operation of a preschool program or programs.

EDUCATION CODE SECTION 17071.75

ONGOING ELIGIBILITY FOR NEW CONSTRUCTION FUNDING; CALCULATIONS

After a one-time initial report of existing school building capacity has been completed, the ongoing eligibility of a school district for new construction funding shall be determined by making all of the following calculations:

(a) A school district that applies to receive funding for new construction shall use the following methods to determine projected enrollment:

(1) A school district that has two or more schoolsites each with a pupil population density that is greater than 115 pupils per acre in kindergarten and grades 1 to 6, inclusive, or a schoolsite pupil population density that is greater than 90 pupils per acre in grades 7 to 12, inclusive, as determined by the Superintendent using enrollment data from the California Basic Educational Data System for the 2004-05 school year, may submit an application for funding for projects that will relieve overcrowded conditions. That school district may also submit an alternative enrollment projection for the fifth year beyond the fiscal year in which the application is made using a methodology other than the cohort survival enrollment projection method as defined by the board pursuant to paragraph (2),

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to be reviewed by the Demographic Research Unit of the Department of Finance, in consultation with the department and the Office of Public School Construction. If the Office of Public School Construction and the Demographic Research Unit of the Department of Finance jointly determine that the alternative enrollment projection provides a reasonable estimate of expected enrollment demand, a recommendation shall be forwarded to the board to approve or disapprove the application, in accordance with all of the following:

(A) Total funding for new construction projects using this method shall be limited to five hundred million dollars ($500,000,000), from the Kindergarten-University Public Education Facilities Bond Act of 2004.

(B) The eligibility amount for proposed projects that relieve overcrowding is the difference between the alternative enrollment projection method for the year the application is submitted and the cohort survival enrollment projection method, as defined by paragraph (2), for the same year, adjusted by the existing pupil capacity in excess of the projected enrollment according to the cohort survival enrollment projection method.

(C) The Office of Public School Construction shall determine whether each proposed project will relieve overcrowding, including, but not limited to, the elimination of the use of Concept 6 calendars, four track year-round calendars, or busing in excess of 40 minutes, and recommend approval to the board. The number of unhoused pupil grants requested in the application for funding from the eligibility determined pursuant to this paragraph shall be limited to the number of seats necessary to relieve overcrowding, including, but not limited to, the elimination of the use of Concept 6 calendars, four track year-round calendars, or busing in excess of 40 minutes, less the number of unhoused pupil grants attributed to that school as a source school in an approved application pursuant to Section 17078.24.

(D) A school district shall use the same alternative enrollment projection methodology for all applications submitted pursuant to this paragraph and shall calculate those projections in accordance with the same districtwide or high school attendance area used for the enrollment projection made pursuant to paragraph (2).

(2) A school district shall calculate enrollment projections for the fifth year beyond the fiscal year in which the application is made. Projected enrollment shall be determined by utilizing the cohort survival enrollment projection system, as defined and approved by the board. The board may supplement the cohort survival enrollment projection with any of the following:

(A) The number of unhoused pupils that are anticipated as a result

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of dwelling units proposed pursuant to approved and valid tentative subdivision maps.

(B) Modified weighting mechanisms, if the board determines that they best represent the enrollment trends of the district. Mechanisms pursuant to this subparagraph shall be developed and applied in consultation with the Demographic Research Unit of the Department of Finance.

(C) An adjustment to reflect the effects on kindergarten and first grade enrollment of changes in birth rates within the school district or high school attendance area boundaries.

(3) (A) A school district may submit an enrollment projection for either a 5th year or a 10th year beyond the fiscal year in which the application is made. A school district that bases its enrollment projection calculation on a high school attendance area may use pupil residence in that attendance area to calculate enrollment. A school district that utilizes pupil residence shall do so for all high school attendance areas within the district. A pupil shall not be included in a high school attendance area enrollment projection based on pupil residence unless that pupil was included in the California Basic Educational Data System (CBEDS) report of the district for the same enrollment year. The board may require a district to provide a reconciliation of the districtwide CBEDS and residency data. The board also may adopt regulations to specify the format and certification requirements for a school district that submits residency data.

(b) (1) Add the number of pupils that may be adequately housed in the existing school building capacity of the applicant school district as determined pursuant to Article 2 (commencing with Section 17071.10) to the number of pupils for whom facilities were provided from any state or local funding source after the existing school building capacity was determined pursuant to Article 2 (commencing with Section 17071.10). For this purpose, the total number of pupils for whom facilities were provided shall be determined using the pupil loading formula set forth in Section 17071.25.

(2) Subtract from the number of pupils calculated in paragraph (1) the number of pupils that were housed in facilities to which the school district or county office of education relinquished title as the result of a transfer of a special education program between a school district and a county office of education or special education local plan area, if applicable. For this purpose, the total number of pupils that were housed in the facilities to which title was relinquished shall be determined using the pupil loading formula adopted by the board pursuant to subparagraph (B) of paragraph (2) of subdivision (a) of Section 17071.25. For purposes of this paragraph, title also includes any lease interest with a duration of greater than five years.

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(c) Subtract the number of pupils pursuant to subdivision (b) from the number of pupils determined pursuant to paragraph (2) of subdivision (a).

(d) The calculations required to establish eligibility under this article shall result in a distinction between the number of existing unhoused pupils and the number of projected unhoused pupils.

(e) Apply the increase or decrease resulting from the difference between the most recent report made pursuant to Section 42268, and the report used in determining the baseline capacity of the school district pursuant to subdivision (a) of Section 17071.25.

(f) For purposes of calculating projected enrollment pursuant to subdivision (a), the board may adopt regulations to ensure that the enrollment calculation of individuals with exceptional needs receiving special education services is adjusted in the enrollment reporting period in which the transfer occurs and three previous school years as a result of a transfer of a special education program between a school district and a county office of education or a special education local plan area. However, the projected enrollment calculation of a county office of education shall only be adjusted if a transfer of title for the special education program facilities has occurred. The regulations, if adopted, shall ensure that if a transfer of title to special education program facilities constructed with state funds occurs within 10 years after initial occupancy of the facility, the receiving school district or school districts shall remit to the state a proportionate share of any financial hardship assistance provided for the project pursuant to Section 17075.10, if applicable.

(g) For a school district with an enrollment of 2,500 or less, an adjustment in enrollment projections shall not result in a loss of ongoing eligibility to that school district for a period of three years from the date of the approval of eligibility by the board.

[PROCEED TO PAGE 6.7]

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EDUCATION CODE SECTION 17072.10

MAXIMUM TOTAL NEW CONSTRUCTION GRANT ELIGIBILITY; CALCULATION; ANNUAL ADJUSTMENT OF PER-UNHOUSED-PUPIL APPORTIONMENT; REGULATIONS; SUPPLEMENTAL GRANT; SUPPLEMENTAL APPORTIONMENT FOR DISTRICTS WITH ENROLLMENT OF 2,500 OR LESS

(a) The board shall determine the maximum total new construction grant eligibility of an applicant by multiplying the number of unhoused pupils calculated pursuant to Article 3 (commencing with Section 17071.75) in each school district with an approved application for new construction, by the per-unhoused-pupil grant as follows:

(1) Five thousand two hundred dollars ($5,200) for elementary school pupils.

(2) Five thousand five hundred dollars ($5,500) for middle school pupils.

(3) Seven thousand two hundred dollars ($7,200) for high school pupils.

(b) The board annually shall adjust the per-unhoused-pupil apportionment to reflect construction cost changes, as set forth in the statewide cost index for class B construction as determined by the board.

(c) Regulations adopted by the board prior to July 1, 2000, that adjust the amounts identified in this section for qualifying individuals with exceptional needs, as defined in Section 56026, as amended after July 1, 2000, in consideration of the recommendations provided pursuant to Section 17072.15, shall continue in effect. An increase made to the per-unhoused-pupil grant amounts set forth in subdivision (a), on or after January 1, 2010, including, but not limited to, those made pursuant to Section 17072.11 on or after January 1, 2010, also shall be made to the per-unhoused-pupil who is a qualifying individual with exceptional needs grant amounts established pursuant to this subdivision. If an increase to the per-unhoused-pupil grant amounts differentiates among the pupil groups based on whether the pupils are elementary, middle, or high school pupils, the Office of Public School Construction shall recommend to the board, within 60 days of that increase, a methodology to adjust the per-unhoused-pupil grant amount for pupils who are qualifying individuals with exceptional needs so that those adjustments appropriately reflect the increases.

(d) The board may establish a single supplemental per-unhoused-pupil grant in addition to the amounts specified in subdivision (a) based on the statewide average marginal difference in costs in instances where a project requires multilevel school facilities due to limited acreage. The application of a school district shall demonstrate that a practical alternative site is not available.

(e) For a school district having an enrollment of 2,500 or less for the prior fiscal year, the board may approve a supplemental apportionment of up to seven thousand five hundred dollars ($7,500) for any new construction project assistance. The amount of the

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supplemental apportionment authorized pursuant to this subdivision shall be adjusted in 2008 and every year thereafter by an amount equal to the percentage adjustment for class B construction.

[PROCEED TO PAGE 6.9]

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EDUCATION CODE SECTION 17072.20

REQUESTS FOR PROJECT APPORTIONMENT; APPLICATIONS; APPROVAL

(a) An applicant school district that has been determined by the board to meet the eligibility requirements for new construction funding set forth in Article 2 (commencing with Section 17071.10) or Article 3 (commencing with Section 17071.75) may submit at any time a request to the board for a project apportionment for all or a portion of the funding for which the school district is eligible.

(b) The application shall include, but shall not be limited to, the school district's determination of the amount of state funding that the district is otherwise eligible for relating to site acquisition, site development, new construction, and hardship funding provided pursuant to Article 8 (commencing with Section 17075.10), if any. The amount shall be reduced by the amount of the alternative fee collected pursuant to subdivision (a) of Section 65995.7 of the Government Code if a reimbursement election or agreement pursuant to Section 65995.7 of the Government Code is not in effect.

(c) The board shall verify and adjust, as necessary, and approve the district's application.

EDUCATION CODE SECTION 17582

DISTRICT DEFERRED MAINTENANCE FUND; ESTABLISHMENT; PURPOSE

(a) The governing board of each school district may establish a restricted fund to be known as the "district deferred maintenance fund" for the purposes including, but not limited to, major repair or replacement of plumbing, heating, air conditioning, electrical, roofing, and floor systems; the exterior and interior painting of school buildings; the inspection, sampling, and analysis of building materials to determine the presence of asbestos-containing materials; the encapsulation or removal of asbestos-containing materials; the inspection, identification, sampling, and analysis of building materials to determine the presence of lead-containing materials; and the control, management, and removal of lead-containing materials. Funds deposited in the district deferred maintenance fund may be received from any source and shall be accounted for separately from all other funds and accounts and retained in the district deferred maintenance fund for purposes of this section. The term "school building" as used in this article includes a facility that a county office of education is authorized to use pursuant to Article 3 (commencing with Section 17280) of Chapter 3.

(b) Funds deposited in the district deferred maintenance fund shall only be expended for maintenance purposes as provided pursuant to subdivision (a).

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(c) The governing board of each school district shall have complete control over the funds and earnings of funds once deposited in the district deferred maintenance fund.

EDUCATION CODE SECTION 17620

LEVIES AGAINST DEVELOPMENT PROJECTS BY SCHOOL DISTRICTS

(a) (1) 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 Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code. This fee, charge, dedication, or other requirement may be applied to construction only as follows:

(A) To new commercial and industrial construction. The chargeable covered and enclosed space of commercial or industrial construction shall not be deemed to include the square footage of any structure existing on the site of that construction as of the date the first building permit is issued for any portion of that construction.

(B) To new residential construction.

(C) (i) Except as otherwise provided in clause (ii), to other residential construction, only if the resulting increase in assessable space exceeds 500 square feet. The calculation of the "resulting increase in assessable space" for this purpose shall reflect any decrease in assessable space in the same residential structure that also results from that construction. Where authorized under this paragraph, the fee, charge, dedication, or other requirement is applicable to the total resulting increase in assessable space.

(ii) This subparagraph does not authorize the imposition of a levy, charge, dedication, or other requirement against residential construction, regardless of the resulting increase in assessable space, if that construction qualifies for the exclusion set forth in subdivision (a) of Section 74.3 of the Revenue and Taxation Code.

(D) To location, installation, or occupancy of manufactured homes and mobile homes, as defined in Section 17625.

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(2) For purposes of this section, "construction" and "assessable space" have the same meanings as defined in Section 65995 of the Government Code.

(3) For purposes of this section and Section 65995 of the Government Code, "construction or reconstruction of school facilities" does not include any item of expenditure for any of the following:

(A) The regular maintenance or routine repair of school buildings and facilities.

(B) The inspection, sampling, analysis, encapsulation, or removal of asbestos-containing materials, except where incidental to school facilities construction or reconstruction for which the expenditure of fees or other consideration collected pursuant to this section is not prohibited.

(C) The purposes of deferred maintenance described in Section 17582.

(4) The appropriate city or county may be authorized, pursuant to contractual agreement with the governing board, to collect and otherwise administer, on behalf of the school district, any fee, charge, dedication, or other requirement levied under this subdivision. In the event of any agreement authorizing a city or county to collect that fee, charge, dedication, or other requirement in any area within the school district, the certification requirement set forth in subdivision (b) or (c), as appropriate, is deemed to be complied with as to any residential construction within that area upon receipt by that city or county of payment of the fee, charge, dedication, or other requirement imposed on that residential construction.

(5) Fees or other consideration collected pursuant to this section may be expended by a school district for the costs of performing any study or otherwise making the findings and determinations required under subdivisions (a), (b), and (d) of Section 66001 of the Government Code, or in preparing the school facilities needs analysis described in Section 65995.6 of the Government Code. In addition, an amount not to exceed, in any fiscal year, 3 percent of the fees collected in that fiscal year pursuant to this section may be retained by the school district, city, or county, as appropriate, for reimbursement of the administrative costs incurred by that entity in collecting the fees. When any city or county is entitled, under an agreement as described in paragraph (4), to compensation in excess of that amount, the payment of that excess compensation shall be made from other revenue sources available to the school district. For purposes of this paragraph, "fees collected in that fiscal year pursuant to this section" does not include any amount in addition to the amounts specified in paragraphs (1) and (2) of subdivision (b) of Section 65995 of the Government Code.

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(b) A city or county, whether general law or chartered, or the Office of Statewide Health Planning and Development shall not issue a building permit for any construction absent certification by the appropriate school district that any fee, charge, dedication, or other requirement levied by the governing board of that school district has been complied with, or of the district's determination that the fee, charge, dedication, or other requirement does not apply to the construction. The school district shall issue the certification immediately upon compliance with the fee, charge, dedication, or other requirement.

(c) If, pursuant to subdivision (c) of Section 17621, the governing board specifies that the fee, charge, dedication, or other requirement levied under subdivision (a) is subject to the restriction set forth in subdivision (a) of Section 66007 of the Government Code, the restriction set forth in subdivision (b) of this section does not apply. In that event, however, a city or county, whether general law or chartered, shall not conduct a final inspection or issue a certificate of occupancy, whichever is later, for any residential construction absent certification by the appropriate school district of compliance by that residential construction with any fee, charge, dedication, or other requirement levied by the governing board of that school district pursuant to subdivision (a).

(d) Neither subdivision (b) nor (c) shall apply to a city, county, or the Office of Statewide Health Planning and Development as to any fee, charge, dedication, or other requirement as described in subdivision (a), or as to any increase in that fee, charge, dedication, or other requirement, except upon the receipt by that city, county, or the Office of Statewide Health Planning and Development of notification of the adoption of, or increase in, the fee or other requirement in accordance with subdivision (c) of Section 17621.

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EDUCATION CODE 17621

PROCEDURES FOR ADOPTION OR INCREASE OF LEVY; PROTEST

(a) Any resolution adopting or increasing a fee, charge, dedication, or other requirement pursuant to Section 17620, for application to residential, commercial, or industrial development, shall be enacted in accordance with Chapter 5 (commencing with Section 66000) of Division 1 of Title 7 of the Government Code. The adoption, increase, or imposition of any fee, charge, dedication, or other requirement pursuant to Section 17620 shall not be subject to the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code. The adoption of, or increase in, the fee, charge, dedication, or other requirement shall be effective no sooner than 60 days following the final action on that adoption or increase, except as specified in subdivision (b).

(b) Without following the procedure otherwise required for adopting or increasing a fee, charge, dedication, or other requirement, the governing board of a school district may adopt an urgency measure as an interim authorization for a fee, charge, dedication, or other requirement, or increase in a fee, charge, dedication, or other requirement, where necessary to respond to a current and immediate threat to the public health, welfare, or safety. The interim authorization shall require a four-fifths vote of the governing board for adoption, and shall contain findings describing the current and immediate threat to the public health, welfare, or safety.

The interim authorization shall have no force or effect on and after a date 30 days after its adoption. After notice and hearing in accordance with subdivision (a), the governing board, upon a four-fifths vote of the board, may extend the interim authority for an additional 30 days. Not more than two extensions may be granted.

(c) Upon adopting or increasing a fee, charge, dedication, or other requirement pursuant to subdivision (a) or (b), the school district shall transmit a copy of the resolution to each city and each county in which the district is situated, accompanied by all relevant supporting documentation and a map clearly indicating the boundaries of the area subject to the fee, charge, dedication, or other requirement. The school district governing board shall specify, pursuant to that notification, whether or not the collection of the fee or other charge is subject to the restriction set forth in subdivision (a) of Section 66007 of the Government Code.

(d) Any party on whom a fee, charge, dedication, or other requirement has been directly imposed pursuant to Section 17620 may protest the establishment or imposition of that fee, charge, dedication, or other requirement in accordance with Section 66020 of the Government Code, except that the procedures set forth in Section 66021 of the Government Code are deemed to apply, for this purpose, to commercial and industrial development, as well as to residential development.

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(e) In the case of any commercial or industrial development, the following procedures shall also apply:

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(1) The school district governing board shall, in the course of making the findings required under subdivisions (a) and (b) of Section 66001 of the Government Code, do all of the following:

(A) Make the findings on either an individual project basis or on the basis of categories of commercial or industrial development. Those categories may include, but are not limited to, the following uses: office, retail, transportation, communications and utilities, light industrial, heavy industrial, research and development, and warehouse.

(B) Conduct a study to determine the impact of the increased number of employees anticipated to result from the commercial or industrial development upon the cost of providing school facilities within the district. For the purpose of making that determination, the study shall utilize employee generation estimates that are calculated on either an individual project or categorical basis, in accordance with subparagraph (A). Those employee generation estimates shall be based upon commercial and industrial factors within the district or upon, in whole or in part, the applicable employee generation estimates set forth in the January 1990 edition of "San Diego Traffic Generators," a report of the San Diego Association of Governments.

(C) The governing board shall take into account the results of that study in making the findings described in this subdivision.

(2) In addition to any other requirement imposed by law, in the case of any development project against which a fee, charge, dedication, or other requirement is to be imposed pursuant to Section 53080[1] on the basis of a category of commercial or industrial development, as described in paragraph (1), the governing board shall provide a process that permits the party against whom the fee, charge, dedication, or other requirement is to be imposed the opportunity for a hearing to appeal that imposition. The grounds for that appeal include, but are not limited to, the inaccuracy of including the project within the category pursuant to which the fee, charge, dedication, or other requirement is to be imposed, or that the employee generation or pupil generation factors utilized under the applicable category are inaccurate as applied to the project. The party appealing the imposition of the fee, charge, dedication, or other requirement shall bear the burden of establishing that the fee, charge, dedication, or other requirement is improper.

[1] This reference to the repealed Section 53080 appears to be the result of legislative error, and likely should be construed as a reference to Section 17620, which replaced Section 53080.

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EDUCATION CODE SECTION 17622

SCHOOL DISTRICTS; LEVIES ON ENCLOSED AGRICULTURAL SPACE

(a) No fee, charge, dedication, or other requirement may be levied by any school district pursuant to Section 17620 upon any greenhouse or other space that is covered or enclosed for agricultural purposes, unless and until the district first complies with subdivisions (b) and (c).

(b) The school district governing board shall make a finding, supported by substantial evidence of both of the following:

(1) The amount of the proposed fees or the other requirements and the location of the land, if any, to be dedicated, bear a reasonable relationship and are limited to the needs of the community for elementary or high school facilities caused by the development.

(2) The amount of the proposed fees or other requirements does not exceed the estimated reasonable cost of providing for the construction or reconstruction of the school facilities necessitated by the development projects from which the fees or other requirements are to be collected.

(c) In determining the amount of the fees or other requirements, if any, to be levied on the development of any structure as described in subdivision (a), the school district governing board shall consider the relationship between the proposed increase in the number of employees, if any, the size and specific use of the structure, and the cost of the construction. No fee, charge, dedication, or other form of requirement, as authorized under Section 17620, shall be applied to the development of any structure described in subdivision (a) where the governing board finds either that the number of employees is not increased as a result of that development, or that housing has been provided for those employees, to the extent of any increase, by their employer, against which housing a fee, charge, or dedication, or other form of requirement has been applied under Section 17620. In developing the finding described in this section, the governing board shall consult with the county agricultural commissioner or the county director of the cooperative extension service.

EDUCATION CODE SECTION 17623

DISTRIBUTION OF FEE LEVIED BY TWO NONUNIFIED SCHOOL DISTRICTS WITH COMMON TERRITORIAL JURISDICTION

In the event the fee authorized pursuant to Section 17620 is levied by two nonunified school districts having common territorial jurisdiction, in a total amount that exceeds the maximum fee authorized under Section 65995 of the Government Code, the fee revenue for the area of common jurisdiction shall be distributed in the following manner:

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(a) The governing boards of the affected school districts shall enter into an agreement specifying the allocation of fee revenue and the duration of the agreement. A copy of that agreement shall be transmitted by each district to the State Allocation Board.

(b) In the event the affected school districts are unable to reach an agreement pursuant to subdivision (a), the districts shall jointly submit the dispute to a three-member arbitration panel composed of one representative chosen by each of the districts and one representative chosen jointly by both of the districts. The decision of the arbitration panel shall be final and binding upon both districts for a period of three years.

EDUCATION CODE SECTION 17624

REPAYMENT OF LEVY ON DEVELOPMENT PROJECT WITHOUT COMMENCEMENT OF CONSTRUCTION

(a) Any school district that has imposed or, subsequent to the operative date of this section, imposes, any fee, charge, dedication, or other requirement under Section 17620 against any development project that subsequently meets the description set forth in subdivision (b), shall repay or reconvey, as appropriate, that fee, charge, dedication, or other requirement to the person or persons from whom that fee, charge, dedication, or other requirement was collected, less the amount of the administrative costs incurred in collecting and repaying the fee, charge, dedication, or other requirement.

(b) This section applies to any development project for which the building permit, including any extensions, expires on or after January 1, 1990, without the commencement of construction, as defined in subdivision (c) of Section 65995 of the Government Code.

EDUCATION CODE SECTION 17625

LEVIES AGAINST MANUFACTURED HOME OR MOBILE HOME BY SCHOOL DISTRICTS

(a) Notwithstanding any other law, any fee, charge, dedication, or other form of requirement levied by the governing board of a school district under Section 17620 may apply, as to any manufactured home or mobile home, only pursuant to compliance with all of the following conditions:

(1) The fee, charge, dedication, or other form of requirement is applied to the initial location, installation, or occupancy of the manufactured home or mobile home within the school district.

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(2) The manufactured home or mobile home is to be located, installed, or occupied on a space or site on which no other manufactured home or mobile home was previously located, installed, or occupied.

(3) The manufactured home or mobile home is to be located, installed, or occupied on a space in a mobile home park, or on any site or in any development outside a mobile home park, on which the construction of the pad or foundation system commenced after September 1, 1986.

(b) Compliance on the part of any manufactured home or mobile home with any fee, charge, dedication, or other form of requirement, as described in subdivision (a), or certification by the appropriate school district of that compliance, shall be required as a condition of the following, as applicable:

(1) The close of escrow, if the manufactured home or mobile home is to be located, installed, or occupied on a mobile home park space, or on any site or in any development outside a mobile home park, as described in subdivision (a), and the sale or transfer of the manufactured home or mobile home is subject to escrow as provided in Section 18035 or 18035.2 of the Health and Safety Code.

(2) The approval of the manufactured home or mobile home for occupancy pursuant to Section 18551 or 18613 of the Health and Safety Code, in the event that paragraph (1) does not apply.

(c) A fee or other requirement levied under Section 17620 shall not be applied to any of the following:

(1) Any manufactured home or mobile home located, installed, or occupied on a space in a mobile home park on or before September 1, 1986, or on any date thereafter, if construction on that space, pursuant to a building permit, commenced on or before September 1, 1986.

(2) Any manufactured home or mobile home located, installed, or occupied on any site outside of a mobile home park on or before September 1, 1986, or on any date thereafter if construction on that site pursuant to a building permit commenced on or before September 1, 1986.

(3) The replacement of or addition to a manufactured home or mobile home located, installed, or occupied on a space in a mobile home park, subsequent to the original location, installation, or occupancy of any manufactured home or mobile home on that space.

(4) The replacement of a manufactured home or mobile home that was destroyed or damaged by fire or any form of natural disaster.

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(5) A manufactured home or mobile home accessory structure, as defined in Section 18008.5 or 18213 of the Health and Safety Code.

(6) The conversion of a rental mobile home park to a subdivision, cooperative, or condominium for mobile homes, or its conversion to any other form of resident ownership of the park, as described in Section 50561 of the Health and Safety Code.

(d) If any fee or other requirement levied under Section 17620 is required as to any manufactured home or mobile home that is subsequently replaced by a permanent residential structure constructed on the same lot, the amount of that fee or other requirement shall apply toward the payment of any fee or other requirement under Section 17620 applied to that permanent residential structure.

(e) Notwithstanding any other provision of law, any school district that, on or after January 1, 1987, collected any fee, charge, dedication, or other form of requirement from any manufactured home, mobile home, mobile home park, or other development, shall immediately repay the fee, charge, dedication, or other form of requirement to the person or persons who made the payment to the extent the fee, charge, dedication, or other form of requirement collected would not have been authorized under subdivision (a). This subdivision shall not apply, however, to the extent that, pursuant to Section 16 of Article I of the California Constitution, it would impair the obligation of any contract entered into by any school district, on or before January 1, 1998.

(f) For purposes of this section, "manufactured home," "mobile home," and "mobile home park" have the meanings set forth in sections 18007, 18008, 18214, respectively, of the Health and Safety Code.

(g) (1) Whenever a manufactured home or a mobile home owned by a person 55 years of age or older who is also a member of a lower income household as defined by Section 50079.5 of the Health and Safety Code, and which has been moved from a mobile home park space located in one school district, where the mobile home owner has resided, to a space or lot located in a mobile home park or a subdivision, cooperative, or condominium for mobile homes or manufactured homes located in another school district, is subject to any fee or other requirement under Section 17620, this section, and Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code, the district in which the manufactured home or mobile home has been newly located may waive the fee or other requirement under Section 53080, this section, and Chapter 4.9 (commencing with Section 65995) of division 1 of Title 7 of the Government Code, or otherwise shall be required to grant the homeowner the necessary approval for occupancy of the home, and permission to pay the amount of the fee or other requirement thereafter, in installments, over a period totaling no less than 36 months. A school district may require that the installments be paid monthly, quarterly, or every six months during the 36-month period, and that the fee be

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secured as a lien perfected against the mobile home or manufactured home pursuant to Section 18080.7 of the Health and Safety Code.

(2) Costs of filing the lien and reasonable late charges or interest may be added to the amount of the lien. This subdivision does not apply if a school facilities fee, charge, or other requirement is imposed pursuant to Section 65995.2 of the Government Code.

EDUCATION CODE SECTION 17626

APPLICATION OF LEVY TO RECONSTRUCT AFTER DAMAGE OR DESTRUCTION BY DISASTER

(a) A fee, charge, dedication, or other requirement authorized under Section 17620, whether or not allowable under Chapter 6 (commencing with Section 66010) of Division 1 of Title 7 of the Government Code, may not be applied to the reconstruction of any residential, commercial, or industrial structure that is damaged or destroyed as a result of a disaster, except to the extent the square footage of the reconstructed structure exceeds the square footage of the structure that was damaged or destroyed. That square footage comparison shall be made, in the case of a commercial or industrial structure, on the basis of chargeable covered and enclosed space, as defined in Section 65995 of the Government Code, or in the case of a residential structure, on the basis of assessable space, as defined in Section 65995 of the Government Code.

(b) The following definitions apply for the purposes of this section:

(1) "Disaster" means a fire, earthquake, landslide, mudslide, flood, tidal wave, or other unforeseen event that produces material damage or loss.

(2) "Reconstruction" means the construction of property that replaces, and is equivalent in kind to, the damaged or destroyed property.

GOVERNMENT CODE SECTION 6062a

10 DAYS; OPTIONAL PUBLICATION

Publication of notice pursuant to this section shall be for 10 days in a newspaper regularly published once a week or oftener. Two publications, with at least five days intervening between the dates of first and last publication not counting such publication dates, are sufficient. The period of notice commences upon the first day of publication and terminates at the end of the tenth day, including therein the first day.

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GOVERNMENT CODE SECTION 15432

DEFINITIONS

As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means the California Health Facilities Financing Authority Act.

(b) "Authority" means the California Health Facilities Financing Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion of a project financed under this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during, and for a period not to exceed the later of one year or one year following completion of construction, as determined by the authority, the cost of insurance during construction, the cost of funding or financing noncapital expenses, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, service contracts, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses of funding or financing, that are necessary or incident to determining the feasibility of constructing any project, or that are incident to the construction, acquisition, or financing of any project.

(d) "Health facility" means a facility, place, or building that is licensed, accredited, or certified and organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, or physical, mental, or developmental disability, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, and includes, but is not limited to, all of the following types:

(1) A general acute care hospital that is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(2) An acute psychiatric hospital that is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an

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organized medical staff that provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(3) A skilled nursing facility that is a health facility that provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability or skilled nursing care on an extended basis.

(4) An intermediate care facility that is a health facility that provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability or continuous skilled nursing care.

(5) A special health care facility that is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff that provides inpatient or outpatient, acute or nonacute care, including, but not limited to, medical, nursing, rehabilitation, dental, or maternity.

(6) A clinic that is operated by a tax-exempt nonprofit corporation that is licensed pursuant to Section 1204 or 1204.1 of the Health and Safety Code or a clinic exempt from licensure pursuant to subdivision (b) or (c) of Section 1206 of the Health and Safety Code.

(7) An adult day health center that is a facility, as defined under subdivision (b) of Section 1570.7 of the Health and Safety Code, that provides adult day health care, as defined under subdivision (a) of Section 1570.7 of the Health and Safety Code.

(8) A facility owned or operated by a local jurisdiction for the provision of county health services.

(9) A multilevel facility is an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this paragraph, means a person 62 years of age or older.

(10) A child day care facility operated in conjunction with a health facility. A child day care facility is a facility, as defined in Section 1596.750 of the Health and Safety Code. For purposes of this paragraph, "child" means a minor from birth to 18 years of age.

(11) An intermediate care facility/developmentally disabled habilitative that is a health facility, as defined under subdivision (e) of Section 1250 of the Health and Safety Code.

(12) An intermediate care facility/developmentally disabled-nursing that is a health facility, as defined under subdivision (h) of Section 1250 of the Health and Safety Code.

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(13) A community care facility that is a facility, as defined under subdivision (a) of Section 1502 of the Health and Safety Code, that provides care, habilitation, rehabilitation, or treatment services to developmentally disabled or mentally impaired persons.

(14) A nonprofit community care facility, as defined in subdivision (a) of Section 1502 of the Health and Safety Code, other than a facility that, as defined in that subdivision, is a residential facility for the elderly, a foster family agency, a foster family home, a full service adoption agency, or a noncustodial adoption agency.

(15) A nonprofit accredited community work activity program, as specified in subdivision (e) of Section 4851 and Section 4856 of the Welfare and Institutions Code.

(16) A community mental health center, as defined in paragraph (3) of subdivision (b) of Section 5667 of the Welfare and Institutions Code.

(17) A nonprofit speech and hearing center, as defined in Section 1201.5 of the Health and Safety Code.

(18) A blood bank, as defined in Section 1600.2 of the Health and Safety Code, licensed pursuant to Section 1602.5 of the Health and Safety Code, and exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

(19) A residential facility for persons with developmental disabilities, as defined in Sections 4688.5 and 4688.6 of the Welfare and Institutions Code, which includes, but is not limited to, a community care facility licensed pursuant to Section 1502 of the Health and Safety Code and a family teaching home as defined in Section 4689.1 of the Welfare and Institutions Code.

(20) A nonpublic school that provides educational services in conjunction with a health facility, as defined in paragraphs (1) to (19), inclusive, that otherwise qualifies for financing pursuant to this part, if the nonpublic school is certified pursuant to Sections 56366 and 56366.1 of the Education Code as meeting standards relating to the required special education and specified related services and facilities for individuals with physical, mental, or developmental disabilities.

"Health facility" includes a clinic that is described in subdivision (l) of Section 1206 of the Health and Safety Code.

"Health facility" includes information systems equipment and the following facilities, if the equipment and facility is operated in conjunction with or to support the services provided in one or more of the facilities specified in paragraphs (1) to (20), inclusive, of this subdivision: a laboratory, laundry, a nurses or interns residence, housing for staff or employees and their families or patients or relatives of patients, a physicians' facility, an administration building, a research facility, a maintenance, storage, or utility facility, an information systems facility, all structures or facilities related to any of the foregoing

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facilities or required or useful for the operation of a health facility and the necessary and usual attendant and related facilities and equipment, and parking and supportive service facilities or structures required or useful for the orderly conduct of the health facility.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a city, city and county, or county, a district hospital, or a private nonprofit corporation or association, or a limited liability company whose sole member is a nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility or a nonprofit corporation that controls or manages, is controlled or managed by, is under common control or management with, or is affiliated with any of the foregoing, and that, pursuant to this part, undertakes the financing or refinancing of the construction or acquisition of a project or of working capital as provided in this part. "Participating health institution" also includes, for purposes of the California Health Facilities Revenue Bonds (UCSF-Stanford Health Care) 1998 Series A, the Regents of the University of California.

(f) "Project" means construction, expansion, remodeling, renovation, furnishing, or equipping, or funding, financing, or refinancing of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part. "Project" may include reimbursement for the costs of construction, expansion, remodeling, renovation, furnishing, or equipping, or funding, financing, or refinancing of a health facility or acquisition of a health facility. "Project" may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

(g) "Revenue bond" or "bond" means a bond, warrant, note, lease, or installment sale obligation that is evidenced by a certificate of participation or other evidence of indebtedness issued by the authority.

(h) "Working capital" means moneys to be used by, or on behalf of, a participating health institution to pay or prepay maintenance or operation expenses or any other costs that would be treated as an expense item, under generally accepted accounting principles, in connection with the ownership or operation of a health facility, including, but not limited to, reserves for maintenance or operation expenses, interest for not to exceed one year on any loan for working capital made pursuant to this part, and reserves for debt service with respect to, and any costs necessary or incidental to, that financing.

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GOVERNMENT CODE SECTION 53094

COMPLIANCE WITH ZONING ORDINANCES; AUTHORITY TO RENDER ZONING ORDINANCE INAPPLICABLE TO A PROPOSED USE OF PROPERTY; REVIEW

(a) Notwithstanding any other provision of this article, this article does not require a school district to comply with the zoning ordinances of a county or city unless the zoning ordinance makes provision for the location of public schools and unless the city or county has adopted a general plan.

(b) Notwithstanding subdivision (a), the governing board of a school district, that has complied with the requirements of Section 65352.2 of this code and Section 21151.2 of the Public Resources Code, by a vote of two-thirds of its members, may render a city or county zoning ordinance inapplicable to a proposed use of property by the school district. The governing board of the school district may not take this action when the proposed use of the property by the school district is for nonclassroom facilities, including, but not limited to, warehouses, administrative buildings, and automotive storage and repair buildings.

(c) The governing board of the school district shall, within 10 days, notify the city or county concerned of any action taken pursuant to subdivision (b). If the governing board has taken such an action, the city or county may commence an action in the superior court of the county whose zoning ordinance is involved or in which is situated the city whose zoning ordinance is involved, seeking a review of the action of the governing board of the school district to determine whether it was arbitrary and capricious. The city or county shall cause a copy of the complaint to be served on the board. If the court determines that the action was arbitrary and capricious, it shall declare it to be of no force and effect, and the zoning ordinance in question shall be applicable to the use of the property by the school district.

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GOVERNMENT CODE SECTION 54954

TIME AND PLACE OF REGULAR MEETINGS; SPECIAL MEETINGS; EMERGENCIES

(a) Each legislative body of a local agency, except for advisory committees or standing committees, shall provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings. Meetings of advisory committees or standing committees, for which an agenda is posted at least 72 hours in advance of the meeting pursuant to subdivision (a) of Section 54954.2, shall be considered for purposes of this chapter as regular meetings of the legislative body.

(b) Regular and special meetings of the legislative body shall be held within the boundaries of the territory over which the local agency exercises jurisdiction, except to do any of the following:

(1) Comply with state or federal law or court order, or attend a judicial or administrative proceeding to which the local agency is a party.

(2) Inspect real or personal property which cannot be conveniently brought within the boundaries of the territory over which the local agency exercises jurisdiction provided that the topic of the meeting is limited to items directly related to the real or personal property.

(3) Participate in meetings or discussions of multiagency significance that are outside the boundaries of a local agency's jurisdiction. However, any meeting or discussion held pursuant to this subdivision shall take place within the jurisdiction of one of the participating local agencies and be noticed by all participating agencies as provided for in this chapter.

(4) Meet in the closest meeting facility if the local agency has no meeting facility within the boundaries of the territory over which the local agency exercises jurisdiction, or at the principal office of the local agency if that office is located outside the territory over which the agency exercises jurisdiction.

(5) Meet outside their immediate jurisdiction with elected or appointed officials of the United States or the State of California when a local meeting would be impractical, solely to discuss a legislative or regulatory issue affecting the local agency and over which the federal or state officials have jurisdiction.

(6) Meet outside their immediate jurisdiction if the meeting takes place in or nearby a facility owned by the agency, provided that the topic of the meeting is limited to items directly related to the facility.

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(7) Visit the office of the local agency's legal counsel for a closed session on pending litigation held pursuant to Section 54956.9, when to do so would reduce legal fees or costs.

(c) Meetings of the governing board of a school district shall be held within the district, except under the circumstances enumerated in subdivision (b), or to do any of the following:

(1) Attend a conference on nonadversarial collective bargaining techniques.

(2) Interview members of the public residing in another district with reference to the trustees' potential employment of an applicant for the position of the superintendent of the district.

(3) Interview a potential employee from another district.

(d) Meetings of a joint powers authority shall occur within the territory of at least one of its member agencies, or as provided in subdivision (b). However, a joint powers authority which has members throughout the state may meet at any facility in the state which complies with the requirements of Section 54961.

(e) If, by reason of fire, flood, earthquake, or other emergency, it shall be unsafe to meet in the place designated, the meetings shall be held for the duration of the emergency at the place designated by the presiding officer of the legislative body or his or her designee in a notice to the local media that have requested notice pursuant to Section 54956, by the most rapid means of communication available at the time.

GOVERNMENT CODE SECTION 54954.2

AGENDA; POSTING; ACTION ON OTHER MATTERS

(a)(1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site, if the local agency has one. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The agenda shall include information regarding how, to whom, and when a request for disability related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

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(2) For a meeting occurring on and after January 1, 2019, of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site, the following provisions shall apply:

(A) An online posting of an agenda shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link to the current agenda. The direct link to the agenda shall not be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.

(B) An online posting of an agenda including, but not limited to, an agenda posted in an integrated agenda management platform, shall be posted in an open format that meets all of the following requirements:

(i) Retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications.

(ii) Platform independent and machine readable.

(iii) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the agenda.

(C) A legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an Internet Web site and an integrated agenda management platform shall not be required to comply with subparagraph (A) if all of the following are met:

(i) A direct link to the integrated agenda management platform shall be posted on the primary Internet Web site homepage of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an Internet Web site with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.

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(ii) The integrated agenda management platform may contain the prior agendas of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state for all meetings occurring on or after January 1, 2019.

(iii) The current agenda of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state shall be the first agenda available at the top of the integrated agenda management platform.

(iv) All agendas posted in the integrated agenda management platform shall comply with the requirements in clauses (i), (ii), and (iii) of subparagraph (B).

(D) For the purposes of this paragraph, both of the following definitions shall apply:

(i) "Integrated agenda management platform" means an Internet Web site of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.

(ii) "Legislative body" has the same meaning as that term is used in subdivision (a) of Section 54952.

(E) The provisions of this paragraph shall not apply to a political subdivision of a local agency that was established by the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state.

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(3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on his or her own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(c) This section is necessary to implement and reasonably within the scope of paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's Internet Web site, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

(1) A legislative body as that term is defined by subdivision (a) of Section 54952.

(2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.

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GOVERNMENT CODE SECTION 54986

PUBLIC MEETINGS; NOTICE; PUBLIC DATA; ACTION OF BOARD BY ORDINANCE; COST

(a) Prior to either approving an increase in an existing fee or charge or initially imposing a new fee or charge pursuant to Section 54985, the board of supervisors shall hold at least one public meeting, at which oral or written presentations may be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the data required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the clerk of the board of supervisors for mailed notice of the meeting on new or increased fees or charges. Any written request for such mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for such mailed notices shall be filed on or before April 1st of each year. The board of supervisors may establish a reasonable annual charge for sending those notices based on the estimated cost of providing that service. At least 10 days prior to the meeting, the board of supervisors shall make available to the public data indicating the amount of cost, or estimated cost, required to provide the product or service or the cost of enforcing any regulation for which the fee or charge is levied and the revenue sources anticipated to provide the product or service or the cost of enforcing any regulation, including general fund revenues.

(b) Any action by a board of supervisors to levy a new fee or charge or to approve an increase in an existing fee or charge pursuant to Section 54985 shall be taken only by ordinance.

(c) Any costs incurred by a county, a county service area, or county waterworks district governed by a county board of supervisors in conducting the meeting or meetings required pursuant to subdivision (a) may be recovered from fees charged for the product or service or the cost of enforcing any regulation which were the subject of the meeting.

GOVERNMENT CODE SECTION 65352.2

COMMUNICATION AND COORDINATION BETWEEN CITIES, COUNTIES AND SCHOOL DISTRICTS RELATED TO PLANNING FOR SCHOOL SITINGS; MEETINGS WITH PLANNING AGENCY; DISTRIBUTION OF COPIES OF MASTER PLAN

(a) It is the intent of the Legislature in enacting this section to foster improved communication and coordination between cities, counties, and school districts related to planning for school siting.

(b) Following notification by a local planning agency pursuant to paragraph (2) of subdivision (a) of Section 65352, the governing board of any elementary, high school, or

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unified school district, in addition to any comments submitted, may request a meeting with the planning agency to discuss possible methods of coordinating planning, design, and construction of new school facilities and school sites in coordination with the existing or planned infrastructure, general plan, and zoning designations of the city and county in accordance with subdivision (d). If a meeting is requested, the planning agency shall meet with the school district within 15 days following notification.

(c) At least 45 days prior to completion of a school facility needs analysis pursuant to Section 65995.6, a master plan pursuant to Sections 16011 and 16322 of the Education Code, or other long range plan, that relates to the potential expansion of existing school sites or the necessity to acquire additional school sites, the governing board of any school district shall notify and provide copies of any relevant and available information, master plan, or other long range plan, including, if available, any proposed school facility needs analysis, that relates to the potential expansion of existing school sites or the necessity to acquire additional school sites, to the planning commission or agency of the city or county with land use jurisdiction within the school district.

Following notification, or at any other time, the affected city or county may request a meeting in accordance with subdivision (d). If a meeting is requested, the school district shall meet with the city or county within 15 days following notification. After providing the information specified in this section within the 45-day time period specified in this subdivision, the governing board of the affected school district may complete the affected school facility needs analysis, master plan, or other long-range plan without further delay.

(d) At any meeting requested pursuant to subdivision (b) or (c) the parties may review and consider, but are not limited to, the following issues:

(1) Methods of coordinating planning, design, and construction of new school facilities and school sites in coordination with the existing or planned infrastructure, general plan, and zoning designations of the city and county.

(2) Options for the siting of new schools and whether or not the local city or counties existing land use element appropriately reflects the demand for public school facilities, and ensures that new planned development reserves location for public schools in the most appropriate locations.

(3) Methods of maximizing the safety of persons traveling to and from school sites.

(4) Opportunities to coordinate the potential siting of new schools in coordination with existing or proposed community revitalization efforts by the city or county.

(5) Opportunities for financial assistance which the local government may make available to assist the school district with site acquisition, planning, or preparation costs.

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(6) Review all possible methods of coordinating planning, design, and construction of new school facilities and school sites or major additions to existing school facilities and recreation and park facilities and programs in the community.

GOVERNMENT CODE SECTION 65970

LEGISLATIVE FINDINGS AND DECLARATION

The Legislature finds and declares as follows:

(a) Adequate school facilities should be available for children residing in new residential developments.

(b) Public and private residential developments may require the expansion of existing public schools or the construction of new school facilities.

(c) In many areas of the state, the funds for the construction of new classroom facilities are not available when new development occurs, resulting in the overcrowding of existing schools.

(d) New housing developments frequently cause conditions of overcrowding in existing school facilities which cannot be alleviated under existing law within a reasonable period of time.

(e) That, for these reasons, new and improved methods of financing for interim school facilities necessitated by new development are needed in California.

GOVERNMENT CODE SECTION 65995

LEVIES AGAINST DEVELOPMENT PROJECTS FOR CONSTRUCTION OR RECONSTRUCTION OF SCHOOL FACILITIES

(a) Except for a fee, charge, dedication, or other requirement authorized under Section 17620 of the Education Code, or pursuant to Chapter 4.7 (commencing with Section

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65970), a fee, charge, dedication, or other requirement for the construction or reconstruction of school facilities shall not be levied or imposed in connection with, or made a condition of, any legislative or adjudicative act, or both, by any state or local agency involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization, as defined in Section 56021 or 56073.

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(b) Except as provided in Sections 65995.5 and 65995.7, the amount of any fees, charges, dedications, or other requirements authorized under Section 17620 of the Education Code, or pursuant to Chapter 4.7 (commencing with Section 65970), or both, shall not exceed the following:

(1) In the case of residential construction, including the location, installation, or occupancy of manufactured homes and mobile homes, one dollar and ninety-three cents ($1.93) per square foot of assessable space. "Assessable space," for this purpose, means all of the square footage within the perimeter of a residential structure, not including any carport, covered or uncovered walkway, garage, overhang, patio, enclosed patio, detached accessory structure, or similar area. The amount of the square footage within the perimeter of a residential structure shall be calculated by the building department of the city or county issuing the building permit, in accordance with the standard practice of that city or county in calculating structural perimeters. "Manufactured home" and "mobile home" have the meanings set forth in subdivision (f) of Section 17625 of the Education Code. The application of any fee, charge, dedication, or other form of requirement to the location, installation, or occupancy of manufactured homes and mobile homes is subject to Section 17625 of the Education Code.

(2) In any case of any commercial or industrial construction, thirty-one cents ($0.31) per square foot of chargeable covered and enclosed space. "Chargeable covered and enclosed space," for this purpose, means the covered and enclosed space determined to be within the perimeter of a commercial or industrial structure, not including any storage areas incidental to the principal use of the construction, garage, parking structure, unenclosed walkway, or utility or disposal area. The determination of the chargeable covered and enclosed space within the perimeter of a commercial or industrial structure shall be made by the building department of the city or county issuing the building permit, in accordance with the building standards of that city or county. For the determination of chargeable fees to be paid to the appropriate school district in connection with any commercial or industrial construction under the jurisdiction of the Office of Statewide Health Planning and Development, the architect of record shall determine the chargeable covered and enclosed space within the perimeter of a commercial or industrial structure.

(3) The amount of the limits set forth in paragraphs (1) and (2) shall be increased in 2000, and every two years thereafter, according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January meeting, which increase shall be effective as of the date of that meeting.

(c) (1) Notwithstanding any other law, during the term of a contract entered into between a subdivider or builder and a school district, city, county, or city and county, whether general law or chartered, on or before January 1, 1987, that requires the payment of a fee, charge, or dedication for the construction of

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school facilities as a condition to the approval of residential construction, neither Section 17620 of the Education Code nor this chapter applies to that residential construction.

(2) Notwithstanding any other provision of state or local law, construction that is subject to a contract entered into between a person and a school district, city, county, or city and county, whether general law or chartered, after January 1, 1987, and before the operative date of the act that adds paragraph (3) that requires the payment of a fee, charge, or dedication for the construction of school facilities as a condition to the approval of construction, may not be affected by the act that adds paragraph (3).

(3) Notwithstanding any other provision of state or local law, until January 1, 2000, any construction not subject to a contract as described in paragraph (2) that is carried out on real property for which residential development was made subject to a condition relating to school facilities imposed by a state or local agency in connection with a legislative act approving or authorizing the residential development of that property after January 1, 1987, and before the operative date of the act adding this paragraph, shall be required to comply with that condition.

Notwithstanding any other provision of state or local law, on and after January 1, 2000, any construction not subject to a contract as described in paragraph (2) that is carried out on real property for which residential development was made subject to a condition relating to school facilities imposed by a state or local agency in connection with a legislative act approving or authorizing the residential development of that property after January 1, 1987, and before the operative date of the act adding this paragraph, may not be subject to a fee, charge, dedication, or other requirement exceeding the amount specified in paragraphs (1) and (2) of subdivision (b), or, if a district has increased the limit specified in paragraph (1) of subdivision (b) pursuant to either Section 65995.5 or 65995.7, that increased amount.

(4) Any construction that is not subject to a contract as described in paragraph (2), or to paragraph (3), and that satisfies both of the requirements of this paragraph, may not be subject to any increased fee, charge, dedication, or other requirement authorized by the act that adds this paragraph beyond the amount specified in paragraphs (1) and (2) of subdivision (b).

(A) A tentative map, development permit, or conditional use permit was approved before the operative date of the act that amends this subdivision.

(B) A building permit is issued before January 1, 2000.

(d) For purposes of this chapter, "construction" means new construction and reconstruction of existing building for residential, commercial, or industrial.

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"Residential, commercial, or industrial construction" does not include any facility used exclusively for religious purposes that is thereby exempt from property taxation under the laws of this state, any facility used exclusively as a private full-time day school as described in Section 48222 of the Education Code, or any facility that is owned and occupied by one or more agencies of federal, state, or local government. In addition, "commercial or industrial construction" includes, but is not limited to, any hotel, inn, tourist home, or other lodging for which the maximum term of occupancy for guests does not exceed 30 days, but does not include any residential hotel, as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code.

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(e) The Legislature finds and declares that the financing of school facilities and the mitigation of the impacts of land use approvals, whether legislative or adjudicative, or both, on the need for school facilities are matters of statewide concern. For this reason, the Legislature hereby occupies the subject matter of requirements related to school facilities levied or imposed in connection with, or made a condition of, any land use approval, whether legislative or adjudicative act, or both, and the mitigation of the impacts of land use approvals, whether legislative or adjudicative, or both, on the need for school facilities, to the exclusion of all other measures, financial or nonfinancial, on the subjects. For purposes of this subdivision, "school facilities" means any school-related consideration relating to a school district's ability to accommodate enrollment.

(f) Nothing in this section shall be interpreted to limit or prohibit the use of Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 to finance the construction or reconstruction of school facilities. However, the use of Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 may not be required as a condition of approval of any legislative or adjudicative act, or both, if the purpose of the community facilities district is to finance school facilities.

(g) (1) The refusal of a person to agree to undertake or cause to be undertaken an act relating to Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5, including formation of, or annexation to, a community facilities district, voting to levy a special tax, or authorizing another to vote to levy a special tax, may not be a factor when considering the approval of a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization, as defined in Section 56021 or 56073, if the purpose of the community facilities district is to finance school facilities.

(2) If a person voluntarily elects to establish, or annex into, a community facilities district and levy a special tax approved by landowner vote to finance school facilities, the present value of the special tax specified in the resolution of formation shall be calculated as an amount per square foot of assessable space and that amount shall be a credit against any applicable fee, charge, dedication, or other requirement for the construction or reconstruction of school facilities. For purposes of this paragraph, the calculation of present value shall use the interest rate paid on the United States Treasury's 30-year bond on the date of the formation of, or annexation to, the community facilities district, as the capitalization rate.

(3) For purposes of subdivisions (f), (h), and (i), and this subdivision, "school facilities" means any school-related consideration relating to a school district's ability to accommodate enrollment.

(h) The payment or satisfaction of a fee, charge, or other requirement levied or imposed pursuant to Section 17620 of the Education Code in the amount specified in Section 65995 and, if applicable, any amounts specified in Section 65995.5 or 65995.7 are hereby

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deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization as defined in Section 56021 or 56073, on the provision of adequate school facilities.

(i) A state or local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization as defined in Section 56021 or 56073 on the basis of a person's refusal to provide school facilities mitigation that exceeds the amounts authorized pursuant to this section or pursuant to Section 65995.5 or 65995.7, as applicable.

GOVERNMENT CODE SECTION 65995.1

SENIOR CITIZEN AND MIGRANT WORKER HOUSING; CONVERSIONS; APPROVAL

(a) Notwithstanding any other provision of law, as to any development project for the construction of senior citizen housing, as described in Section 51.3 of the Civil Code, a residential care facility for the elderly as described in subdivision (k) of Section 1569.2 of the Health and Safety Code, or a multi-level facility for the elderly as described in paragraph (9) of subdivision (d) of Section 15432, any fee, charge, dedication, or other form of requirement that is levied under Section 53080 may be applied only to new construction, and is subject to the limits and conditions applicable under subdivision (b) of Section 65995 in the case of commercial or industrial development.

(b) Notwithstanding any other provision of law, as to any development project for the construction of agricultural migrant worker housing financed in whole or part pursuant to Chapter 8.5 (commencing with Section 50710) of Part 2 of Division 31 of the Health and Safety Code, no fees, charges, dedications, or other forms of requirements that are levied under Section 53080 shall be applied to new construction, reconstruction, or rehabilitation of this housing. The exemption provided by this subdivision shall be applicable only to that agricultural migrant worker housing which is owned by the state and which is subject to a contract ensuring compliance with the requirements of Chapter 8.5 (commencing with Section 50710) of Part 2 of Division 31 of the Health and Safety Code.

(c) Any development project against which school facilities fees or other requirements have been levied or waived in accordance with the limit or exemptions set forth in subdivision (a) or (b) may be converted to any use other than those uses described in the statutes cited in that subdivision only with the approval of the city or county that issued the building permit for the project. That approval shall not be granted absent certification by the appropriate school district that payment has been made on the part of the development project at the rate of the school facilities fee, charge, dedication, or other form of requirement applied by the district under Section 53080 to residential

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development as of the date of conversion, less the amount of any school facilities fees or other requirements paid on the part of the project in accordance with the limits set forth in subdivision (a) or (b).

GOVERNMENT CODE SECTION 65995.2

MANUFACTURED HOME OR MOBILE HOME LOCATED WITHIN PARK OR SUBDIVISION LIMITED TO OLDER PERSONS; CHANGES IN AGE LIMIT; FEES AND OTHER REQUIREMENTS

(a) Notwithstanding any other provision of law, the imposition of any fee, charge, dedication, or other requirement authorized under Section 53080, or Chapter 4.7 (commencing with Section 65970), or both, against any manufactured home or mobile home that is located within a mobile home park, or subdivision, cooperative, or condominium for mobile homes, in which residence is limited to older persons, as defined pursuant to the federal Fair Housing Amendments Act of 1988, is subject to the limits and conditions that are applicable under subdivision (b) of Section 65995 in the case of commercial and industrial development.

(b) Any mobile home park, or subdivision, cooperative, or condominium for mobile homes, in which school facilities fees, charges, dedications, or other requirements have been imposed against one or more manufactured homes or mobile homes in accordance with the limit set forth in subdivision (a) may subsequently choose to permit the residence of persons other than older persons, in which event it shall so notify the appropriate school district and city or county. As a condition of the first sale, subsequent to that notification, of each manufactured home or mobile home in the mobile home park, or subdivision, cooperative, or condominium for mobile homes, payment shall be made to the school district in the amount of the school facilities fee or other requirement applied by the district under Section 53080, or Chapter 4.7 (commencing with Section 65970), or both, to residential development as of the date of that sale, less the amount of any school facilities fees, charges, dedications, or other requirements imposed against that manufactured home or mobile home in accordance with the limits described in subdivision (a). Any prospective purchaser of a manufactured home or mobile home that is subject to the requirement set forth in this subdivision shall be given written notice of the existence of that requirement by the seller prior to entering into any contract for that purchase.

(c) Compliance on the part of any manufactured home or mobile home with any additional fee or other requirement applied by the school district pursuant to subdivision (b), and certification by the appropriate school district of that compliance, shall be required as a condition of the following, as applicable:

(1) The close of escrow of the first sale of the manufactured home or mobile home following the notice required by subdivision (b), where the manufactured home or mobile home is to be located, installed, or occupied in a mobile home

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park that has chosen to permit the residence of persons other than older persons pursuant to subdivision (b) and the sale or transfer of the manufactured home or mobile home is subject to escrow as provided in Section 18035 or 18035.2 of the Health and Safety Code.

(2) The approval of the manufactured home or mobile homes for initial occupancy pursuant to Section 18551 or 18613 of the Health and Safety Code following the notice required by subdivision (b), where the manufactured home or mobile home is to be located. installed, or occupied in a mobile home park that has chosen to permit the residence of persons other than older persons pursuant to subdivision (b), in the event that paragraph (1) does not apply.

GOVERNMENT CODE SECTION 65995.5

ALTERNATIVE CALCULATION OF AMOUNTS

(a) The governing board of a school district may impose the amount calculated pursuant to this section as an alternative to the amount that may be imposed on residential construction calculated pursuant to subdivision (b) of Section 65995.

(b) To be eligible to impose the fee, charge, dedication, or other requirement up to the amount calculated pursuant to this section, a governing board shall do all of the following:

(l) Make a timely application to the State Allocation Board for new construction funding for which it is eligible and be determined by the board to meet the eligibility requirements for new construction funding set forth in Article 2 (commencing with Section 17071.10) and Article 3 (commencing with Section 17071.75) of Chapter 12.5 of Part 10 of the Education Code. A governing board that submits an application to determine the district's eligibility for new construction funding shall be deemed eligible if the State Allocation Board fails to notify the district of the district's eligibility within 120 days of receipt of the application.

(2) Conduct and adopt a school facility needs analysis pursuant to Section 65995.6.

(3) Until January, 1, 2000, satisfy at least one of the requirements set forth in subparagraphs (A) to (D), inclusive, and, on and after January 1, 2000, satisfy at least two of the requirements set forth in subparagraphs (A) to (D), inclusive:

(A) The district is a unified or elementary school district that has a substantial enrollment of its elementary school pupils on a multitrack year-round schedule. "Substantial enrollment" for purposes of this paragraph means at least 30 percent of district pupils in kindergarten and grades 1 to

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6, inclusive, in the high school attendance area in which all or some of the new residential units identified in the needs analysis are planned for construction. A high school district shall be deemed to have met the requirements of this paragraph if either of the following apply:

(i) At least 30 percent of the high school district's pupils are on a multitrack year-round schedule.

(ii) At least 40 percent of the pupils enrolled in public schools in kindergarten and grades 1 to 12, inclusive, within the boundaries of the high school attendance area for which the school district is applying for new facilities are enrolled in multitrack year-round schools.

(B) The district has placed on the ballot in the previous four years a local general obligation bond to finance school facilities and the measure received at least 50 percent plus one of the votes cast.

(C) The district meets one of the following:

(i) The district has issued debt or incurred obligations for capital outlay in an amount equivalent to 15 percent of the district's local bonding capacity, including indebtedness that is repaid from property taxes, parcel taxes, the district's general fund, special taxes levied pursuant to Section 4 of Article XIII A of the California Constitution, special taxes levied pursuant to Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 that are approved by a vote of registered voters, special taxes levied pursuant to Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 that are approved by a vote of landowners prior to November 4, 1998, and revenues received pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code). Indebtedness or other obligation to finance school facilities to be owned, leased, or used by the district, that is incurred by another public agency, shall be counted for the purpose of calculating whether the district has met the debt percentage requirement contained herein.

(ii) The district has issued debt or incurred obligations for capital outlay in an amount equivalent to 30 percent of the district's local bonding capacity, including indebtedness that is repaid from property taxes, parcel taxes, the district's general fund, special taxes levied pursuant to Section 4 of Article XIII A of the California Constitution, special taxes levied pursuant to Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 that

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are approved by a vote of registered voters, special taxes levied pursuant to Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 that are approved by a vote of landowners after November 4, 1998, and revenues received pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code). Indebtedness or other obligation to finance school facilities to be owned, leased, or used by the district, that is incurred by another public agency, shall be counted for the purpose of calculating whether the district has met the debt percentage requirement contained herein.

(D) At least 20 percent of the teaching stations within the district are relocatable classrooms.

(c) The maximum square foot fee, charge, dedication, or other requirement authorized by this section that may be collected in accordance with Chapter 6 (commencing with Section 17620) of Part 10.5 of the Education Code shall be calculated by a governing board of a school district, as follows:

(1) The number of unhoused pupils identified in the school facilities needs analysis shall be multiplied by the appropriate amounts provided in subdivision (a) of Section 17072.10. This sum shall be added to the site acquisition and development cost determined pursuant to subdivision (h).

(2) The full amount of local funds the governing board has dedicated to facilities necessitated by new construction shall be subtracted from the amount determined pursuant to paragraph (1). Local funds include fees, charges, dedications, or other requirements imposed on commercial or industrial construction.

(3) The resulting amount determined pursuant to paragraph (2) shall be divided by the projected total square footage of assessable space of residential units anticipated to be constructed during the next five-year period in the school district or the city and county in which the school district is located. The estimate of the projected total square footage shall be based on information available from the city or county within which the residential units are anticipated to be constructed or a market report prepared by an independent third party.

(d) A school district that has a common territorial jurisdiction with a district that imposes the fee, charge, dedication, or other requirement up to the amount calculated pursuant to this section or Section 65995.7, may not impose a fee, charge, dedication, or other requirement on residential construction that exceeds the limit set forth in subdivision (b) of Section 65995 less the portion of that amount it would be required to share pursuant to Section 17623 of the Education Code, unless that district is eligible to impose the fee, charge, dedication, or other requirement up to the amount calculated pursuant to this section or Section 65995.7.

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(e) Nothing in this section is intended to limit or discourage the joint use of school facilities or to limit the ability of a school district to construct school facilities that exceed the amount of funds authorized by Section 17620 of the Education Code and provided by the state grant program, if the additional costs are funded solely by local revenue sources other than fees, charges, dedications, or other requirements imposed on new construction.

(f) Except as provided in paragraph (5) of subdivision (a) of Section 17620 of the Education Code, a fee, charge, dedication, or other requirement authorized under this section and Section 65995.7 shall be expended solely on the school facilities identified in the needs analysis as being attributable to projected enrollment growth from the construction of new residential units. This subdivision does not preclude the expenditure of a fee, charge, dedication, or other requirement, authorized pursuant to subparagraph (C) of paragraph (1) of subdivision (a) of Section 17620, on school facilities identified in the needs analysis as necessary due to projected enrollment growth attributable to the new residential units.

(g) "Residential units" and "residences" as used in this section and in Sections 65995.6 and 65995.7 means the development of single-family detached housing units, single-family attached housing units, manufactured homes and mobile homes, as defined in subdivision (f) of Section 17625 of the Education Code, condominiums, and multi-family housing units, including apartments, residential hotels, as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code, and stock cooperatives, as defined in Section 4190 of the Civil Code.

(h) Site acquisition costs shall not exceed half the amount determined by multiplying the land acreage determined to be necessary under the guidelines of the State Department of Education, as published in the "School Site Analysis and Development Handbook," as that handbook read as of January 1, 1998, by the estimated cost determined pursuant to Section 17072.12 of the Education Code. Site development costs shall not exceed the estimated amount that would be funded by the State Allocation Board pursuant to its regulations governing grants for site development costs.

GOVERNMENT CODE SECTION 65995.6

SCHOOL FACILITIES NEEDS ANALYSIS

(a) The school facilities needs analysis required by paragraph (2) of subdivision (b) of Section 65995.5 shall be conducted by the governing board of a school district to determine the need for new school facilities for unhoused pupils that are attributable to projected enrollment growth from the development of new residential units over the next five years. The school facilities needs analysis shall project the number of unhoused elementary, middle, and high school pupils generated by new residential units, in each category of pupils enrolled in the district. This projection of unhoused pupils shall be based on the historical student generation rates of new residential units constructed

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during the previous five years that are of a similar type of unit to those anticipated to be constructed either in the school district or the city or county in which the school district is located, and relevant planning agency information, such as multiphased development projects, that may modify the historical figures. For purposes of this paragraph, "type" means a single family detached, single family attached, or multifamily unit. The existing school building capacity shall be calculated pursuant to Article 2 (commencing with Section 17071.10) of Chapter 12.5 of Part 10 of the Education Code. The existing school building capacity shall be recalculated by the school district as part of any revision of the needs analysis pursuant to subdivision (e) of this section. If a district meets the requirements of paragraph (3) of subdivision (b) of Section 65995.5 by having a substantial enrollment on a multitrack year-round schedule, the determination of whether the district has school building capacity area shall reflect the additional capacity created by the multitrack year-round schedule.

(b) When determining the funds necessary to meet its facility needs, the governing board shall do each of the following:

(1) Identify and consider any surplus property owned by the district that can be used as a schoolsite or that is available for sale to finance school facilities.

(2) Identify and consider the extent to which projected enrollment growth may be accommodated by excess capacity in existing facilities.

(3) Identify and consider local sources other than fees, charges, dedications, or other requirements imposed on residential construction available to finance the construction or reconstruction of school facilities needed to accommodate any growth in enrollment attributable to the construction of new residential units.

(c) The governing board shall adopt the school facility needs analysis by resolution at a public hearing. The school facilities needs analysis may not be adopted until the school facilities needs analysis in its final form has been made available to the public for a period of not less than 30 days during which time the school facilities needs analysis shall be provided to the local agency responsible for land use planning for its review and comment. Prior to the adoption of the school facilities needs analysis, the public shall have the opportunity to review and comment on the school facilities needs analysis and the governing board shall respond to written comments it receives regarding the school facilities needs analysis.

(d) Notice of the time and place of the hearing, including the location and procedure for viewing or requesting a copy of the proposed school facilities needs analysis and any proposed revision of the school facilities needs analysis, shall be published in at least one newspaper of general circulation within the jurisdiction of the school district that is conducting the hearing no less than 30 days prior to the hearing. If there is no paper of general circulation, the notice shall be posted in at least three conspicuous public places within the jurisdiction of the school district not less than 30 days prior to the hearing. In addition to these notice requirements, the governing board shall mail a copy of the school

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facilities needs analysis and any proposed revision to the school facilities needs analysis not less than 30 days prior to the hearing to any person who has made a written request if the written request was made 45 days prior to the hearing. The governing board may charge a fee reasonably related to the cost of providing these materials to those persons who request the school facilities needs analysis or revision.

(e) The school facilities needs analysis may be revised at any time in the same manner, and the revision is subject to the same conditions and requirements, applicable to the adoption of the school facilities needs analysis.

(f) A fee, charge, dedication, or other requirement in an amount authorized by this section or Section 65995.7, shall be adopted by a resolution of the governing board as part of the adoption or revision of the school facilities needs analysis and may not be effective for more than one year. Notwithstanding subdivision (a) of Section 17621 of the Education Code, or any other provision of law, the fee, charge, dedication, or other requirement authorized by the resolution shall take effect immediately after the adoption of the resolution.

(g) Division 13 (commencing with Section 21000) of the Public Resources Code may not apply to the preparation, adoption, or update of the school facilities needs analysis, or adoption of the resolution specified in this section.

(h) Notice and hearing requirements other than those provided in this section may not be applicable to the adoption or revision of a school facilities needs analysis or the resolutions adopted pursuant to this section.

GOVERNMENT CODE 65995.7

STATE FUNDS UNAVAILABLE; SUPPLEMENTAL AMOUNTS AUTHORIZED

(a) If state funds for new school facility construction are not available, the governing board of a school district that complies with Section 65995.5 may increase the alternative fee, charge, dedication, or other requirement calculated pursuant to subdivision (c) of Section 65995.5 by an amount that may not exceed the amount calculated pursuant to subdivision (c) of Section 65995.5, except that for the purposes of calculating this additional amount, the amount identified in paragraph (2) of subdivision (c) of Section 65995.5 may not be subtracted from the amount determined pursuant to paragraph (1) of subdivision (c) of Section 65995.5. For purposes of this section, state funds are not

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available if the State Allocation Board is no longer approving apportionments for new construction pursuant to Article 5 (commencing with Section 17072.20) of Chapter 12.5 of Part 10 of the Education Code due to a lack of funds available for new construction. Upon making a determination that state funds are no longer available, the State Allocation Board shall notify the Secretary of the Senate and the Chief Clerk of the Assembly, in writing, of that determination and the date when state funds are no longer available for publication in the respective journal of each house. For the purposes of making this determination, the board shall not consider whether funds are available for, or whether it is making preliminary apportionments or final apportionments pursuant to, Article 11 (commencing with Section 17078.10).

(b) A governing board may offer a reimbursement election to the person subject to the fee, charge, dedication, or other requirement that provides the person with the right to monetary reimbursement of the supplemental amount authorized by this section, to the extent that the district receives funds from state sources for construction of the facilities for which that amount was required, less any amount expended by the district for interim housing. At the option of the person subject to the fee, charge, dedication, or other requirement the reimbursement election may be made on a tract or lot basis. Reimbursement of available funds shall be made within 30 days as they are received by the district.

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

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

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GOVERNMENT CODE SECTION 65996

CONDITIONS FOR APPROVAL OF DEVELOPMENT PROJECTS; ADEQUACY OF SCHOOL FACILITIES; MITIGATING ENVIRONMENTAL EFFECTS

(a) Notwithstanding Section 65858, or Division 13 (commencing with Section 21000) of the Public Resources Code, or any other provision of state or local law, the following provisions shall be the exclusive methods of considering and mitigating impacts on school facilities that occur or might occur as a result of any legislative or adjudicative act, or both, by any state or local agency involving, but not limited to, the planning, use, or development of real property or any change of governmental organization or reorganization, as defined in Section 56021 or 56073:

(1) Section 17620 of the Education Code.

(2) Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7.

(b) The provisions of this chapter are hereby deemed to provide full and complete school facilities mitigation and, notwithstanding Section 65858, or Division 13 (commencing with Section 21000) of the Public Resources Code, or any other provision of state or local law, a state or local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property or any change in governmental organization or reorganization, as defined in Section 56021 or 56073, on the basis that school facilities are inadequate.

(c) For purposes of this section, "school facilities" means any school-related consideration relating to a school district's ability to accommodate enrollment.

(d) Nothing in this chapter shall be interpreted to limit or prohibit the ability of a local agency to utilize other methods to provide school facilities if these methods are not levied or imposed in connection with, or made a condition of, a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property or a change in governmental organization or reorganization, as defined in Section 56021 or 56073. Nothing in this chapter shall be interpreted to limit or prohibit the assessment or reassessment of property in conjunction with ad valorum taxes, or the placement of a parcel on the secured roll in conjunction with qualified special taxes as that term is used in Section 50079.

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(e) Nothing in this section shall be interpreted to limit or prohibit the ability of a local agency to mitigate the impacts of land use approvals other than on the need for school facilities, as defined in this section.

(f) This section shall become inoperative during any time that Section 65997 is operative and this section shall become operative at any time that Section 65997 is inoperative.

[PROCEED TO PAGE 6.42]

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GOVERNMENT CODE SECTION 65997

EXCLUSIVE METHODS OF MITIGATING ENVIRONMENTAL EFFECTS RELATED TO ADEQUACY OF SCHOOL FACILITIES

(a) The following provisions shall be the exclusive methods of mitigating environmental effects related to the adequacy of school facilities when considering the approval or the establishment of conditions for the approval of a development project, as defined in Section 17620 of the Education Code, pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code:

(1) Chapter 12 (commencing with Section 17000) of, or Chapter 12.5 (commencing with Section 17070.10) of, Part 10 of the Education Code.

(2) Chapter 14 (commencing with Section 17085) of Part 10 of the Education Code.

(3) Chapter 18 (commencing with Section 17170) of Part 10 of the Education Code.

(4) Article 2.5 (commencing with Section 17430) of Chapter 4 of Part 10.5 of the Education Code.

(5) Section 17620 of the Education Code.

(6) Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5.

(7) Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7.

(b) A public agency may not, pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code or Division 2 (commencing with Section 66410) of this code, deny approval of a project on the basis of the adequacy of school facilities.

(c) (1) This section shall become operative on or after any statewide election in 2012, if a statewide general obligation bond measure submitted for voter approval in 2012 or thereafter that includes bond issuance authority to fund construction of kindergarten and grades 1 to 12, inclusive, public school facilities is submitted to the voters and fails to be approved.

(2) (A) This section shall become inoperative if subsequent to the failure of a general obligation bond measure described in paragraph (1) a statewide general bond measure as described in paragraph (1) is approved by the voters.

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(B) Thereafter, this section shall become operative if a statewide general obligation bond measure submitted for voter approval that includes bond issuance authority to fund construction of kindergarten and grades 1 to 12, inclusive, public school facilities is submitted to the voters and fails to be approved and shall become inoperative if subsequent to the failure of the general obligation bond measure a statewide bond measure as described in this subparagraph is approved by the voters.

(d) Notwithstanding any other provision of law, a public agency may deny or refuse to approve a legislative act involving, but not limited to, the planning, use, or development of real property, on the basis that school facilities are inadequate, except that a public agency may not require the payment or satisfaction of a fee, charge, dedication, or other financial requirement in excess of that levied or imposed pursuant to Section 65995 and, if applicable, any amounts specified in Sections 65995.5 or 65995.7.

GOVERNMENT CODE 66000

DEFINITIONS

As used in this chapter, the following terms have the following meanings:

(a) "Development project" means any project undertaken for the purpose of development. "Development project" includes a project involving the issuance of a permit for construction or reconstruction, but not a permit to operate.

(b) "Fee" means a monetary exaction other than a tax or special assessment, whether established for a broad class of projects by legislation of general applicability or imposed on a specific project on an ad hoc 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, but does not include fees specified in Section 66477, fees for processing applications for governmental regulatory actions or approvals, fees collected under development agreements adopted pursuant to Article 2.5 (commencing with Section 65864) of Chapter 4, or fees collected pursuant to agreements with redevelopment agencies that provide for the redevelopment of property in furtherance or for the benefit of a redevelopment project for which a redevelopment plan has been adopted pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code).

(c) "Local agency" means a county, city, whether general law or chartered, city and county, school district, special district, authority, agency, any other municipal public corporation or district, or other political subdivision of the state.

(d) "Public facilities" includes public improvements, public services and community amenities.

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GOVERNMENT CODE SECTION 66001

FEE AS CONDITION OF APPROVAL; AGENCY REQUIREMENTS; PUBLIC FACILITIES

(a) In any action establishing, increasing, or imposing a fee as a condition of approval of a development project by a local agency, the local agency shall do all of the following:

(1) Identify the purpose of the fee.

(2) Identify the use to which the fee is to be put. If the use is financing public facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan as specified in Section 65403 or 66002, may be made in applicable general or specific plan requirements, or may be made in other public documents that identify the public facilities for which the fee is charged.

(3) Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

(4) Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

(b) In any action imposing a fee as a condition of approval of a development project by a local agency, the local agency shall determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

(c) Upon receipt of a fee subject to this section, the local agency shall deposit, invest, account for, and expend the fees pursuant to Section 66006.

(d) (1) For the fifth fiscal year following the first deposit into the account or fund, and every five years thereafter, the local agency shall make all of the following findings with respect to that portion of the account or fund remaining unexpended, whether committed or uncommitted:

(A) Identify the purpose to which the fee is to be put.

(B) Demonstrate a reasonable relationship between the fee and the purpose for which it is charged.

(C) Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements identified in paragraph (2) of subdivision (a).

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(D) Designate the approximate dates on which the funding referred to in subparagraph (C) is expected to be deposited into the appropriate account or fund.

(2) When findings are required by this subdivision, they shall be made in connection with the public information required by subdivision (b) of Section 66006. The findings required by this subdivision need only be made for moneys in possession of the local agency, and need not be made with respect to letters of credit, bonds, or other instruments taken to secure payment of the fee at a future date. If the findings are not made as required by this subdivision, the local agency shall refund the moneys in the account or fund as provided in subdivision (e).

(e) Except as provided in subdivision (f), when sufficient funds have been collected, as determined pursuant to subparagraph (F) of paragraph (1) of subdivision (b) of Section 66006, to complete financing on incomplete public improvements identified in paragraph (2) of subdivision (a), and the public improvements remain incomplete, the local agency shall identify, within 180 days of the determination that sufficient funds have been collected, an approximate date by which the construction of the public improvement will be commenced, or shall refund to the then current record owner or owners of the lots or units, as identified on the last equalized assessment roll, of the development project or projects on a prorated basis, the unexpended portion of the fee, and any interest accrued thereon. By means consistent with the intent of this section, a local agency may refund the unexpended revenues by direct payment, by providing a temporary suspension of fees, or by any other reasonable means. The determination by the governing body of the local agency of the means by which those revenues are to be refunded is a legislative act.

(f) If the administrative costs of refunding unexpended revenues pursuant to subdivision (e) exceed the amount to be refunded, the local agency, after a public hearing, notice of which has been published pursuant to Section 6061 and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which fees are collected subject to this chapter and which serves the project on which the fee was originally imposed.

(g) A fee shall not include the costs attributable to existing deficiencies in public facilities, but may include the costs attributable to the increased demand for public facilities reasonably related to the development project in order to (1) refurbish existing facilities to maintain the existing level of service or (2) achieve an adopted level of service that is consistent with the general plan.

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GOVERNMENT CODE SECTION 66002

CAPITAL IMPROVEMENT PLAN; ADOPTION; UPDATES; HEARINGS

(a) Any local agency which levies a fee subject to Section 66001 may adopt a capital improvement plan, which shall indicate the approximate location, size, time of availability, and estimates of cost for all facilities or improvements to be financed with the fees.

(b) The capital improvement plan shall be adopted by, and shall be annually updated by, a resolution of the governing body of the local agency adopted at a noticed public hearing. Notice of the hearing shall be given pursuant to Section 65090. In addition, mailed notice shall be given to any city or county which may be significantly affected by the capital improvement plan. This notice shall be given no later than the date the local agency notices the public hearing pursuant to Section 65090. The information in the notice shall be not less than the information contained in the notice of public hearing and shall be given by first-class mail or personal delivery.

(c) "Facility" or "improvement," as used in this section, means any of the following:

(1) Public buildings, including schools and related facilities; provided that school facilities shall not be included if Senate Bill 97 of the 1987-88 Regular Session is enacted and becomes effective on or before January 1, 1988.

(2) Facilities for the storage, treatment, and distribution of nonagricultural water.

(3) Facilities for the collection, treatment, reclamation, and disposal of sewage.

(4) Facilities for the collection and disposal of storm waters and for flood control purposes.

(5) Facilities for the generation of electricity and the distribution of gas and electricity.

(6) Transportation and transit facilities, including but not limited to streets and supporting improvements, roads, overpasses, bridges, harbors, ports, airports, and related facilities.

(7) Parks and recreation facilities.

(8) Any other capital project identified in the capital facilities plan adopted pursuant to Section 66002.

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GOVERNMENT CODE SECTION 66006

LOCAL AGENCY IMPROVEMENT FEES; PUBLIC AVAILABILITY OF ACCOUNT OR FUND INFORMATION

(a) If a local agency requires the payment of a fee specified in subdivision (c) in connection with the approval of a development project, the local agency receiving the fee shall deposit it with the other fees for the improvement in a separate capital facilities account or fund in a manner to avoid any commingling of the fees with other revenues and funds of the local agency, except for temporary investments, and expend those fees solely for the purpose for which the fee was collected. Any interest income earned by moneys in the capital facilities account or fund shall also be deposited in that account or fund and shall be expended only for the purpose for which the fee was originally collected.

(b) (1) For each separate account or fund established pursuant to subdivision (a), the local agency shall, within 180 days after the last day of each fiscal year, make available to the public the following information for the fiscal year:

(A) A brief description of the type of fee in the account or fund.

(B) The amount of the fee.

(C) The beginning and ending balance of the account or fund.

(D) The amount of the fees collected and the interest earned.

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan.

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(H) The amount of refunds made pursuant to subdivision (e) of Section 66001 and any allocations pursuant to subdivision (f) of Section 66001.

(2) The local agency shall review the information made available to the public pursuant to paragraph (1) at the next regularly scheduled public meeting not less than 15 days after this information is made available to the public, as required by this subdivision. Notice of the time and place of the meeting, including the address where this information may be reviewed, shall be mailed, at least 15 days prior to the meeting, to any interested party who files a written request with the local agency for mailed notice of the meeting. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service.

(c) For purposes of this section, "fee" means any fee imposed to provide for an improvement to be constructed to serve a development project, or which is a fee for public improvements within the meaning of subdivision (b) of Section 66000, and that is imposed by the local agency as a condition of approving the development project.

(d) Any person may request an audit of any local agency fee or charge that is subject to Section 66023, including fees or charges of school districts, in accordance with that section.

(e) The Legislature finds and declares that untimely or improper allocation of development fees hinders economic growth and is, therefore, a matter of statewide interest and concern. It is, therefore, the intent of the Legislature that this section shall supersede all conflicting local laws and shall apply in charter cities.

(f) At the time the local agency imposes a fee for public improvements on a specific development project, it shall identify the public improvement that the fee will be used to finance.

GOVERNMENT CODE SECTION 66007

CONSTRUCTION OF PUBLIC IMPROVEMENTS OR FACILITIES; PAYMENTS OF FEES OR CHARGES; RESIDENTIAL DEVELOPMENT; TIME; DEFINITIONS

(a) Except as otherwise provided in subdivisions (a) and (g), any local agency that imposes any fees or charges on a residential development for the construction of public improvements or facilities shall not require the payment of those fees or charges, notwithstanding any other provision of law, until the date of the final inspection, or the date the certificate of occupancy is issued, whichever occurs first. However, utility

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service fees may be collected at the time an application for utility service is received. If the residential development contains more than one dwelling, the local agency may determine whether the fees or charges shall be paid on a pro rata basis for each dwelling when it receives its final inspection or certificate of occupancy, whichever occurs first; on a pro rata basis when a certain percentage of the dwellings have received their final inspection or certificate of occupancy, whichever occurs first; or on a lump-sum basis when the first dwelling in the development receives its final inspection or certificate of occupancy, whichever occurs first.

(b) (1) Notwithstanding subdivision (a), the local agency may require the payment of those fees or charges at an earlier time if (A) the local agency determines that the fees or charges will be collected for public improvements or facilities for which an account has been established and funds appropriated and for which the local agency has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy or (B) the fees or charges are to reimburse the local agency for expenditures previously made. "Appropriated," as used in this subdivision, means authorization by the governing body of the local agency for which the fee is collected to make expenditures and incur obligations for specific purposes.

(2) (A) Paragraph (1) does not apply to units reserved for occupancy by lower income households included in a residential development proposed by a nonprofit housing developer in which at least 49 percent of the total units are reserved for occupancy by lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable rent, as defined in Section 50053 of the Health and Safety Code. In addition to the contract that may be required under subdivision (c), a city, county, or city and county may require the posting of a performance bond or a letter of credit from a federally insured, recognized depository institution to guarantee payment of any fees or charges that are subject to this paragraph. Fees and charges exempted from paragraph (1) under this paragraph shall become immediately due and payable when the residential development no longer meets the requirements of this paragraph.

(B) The exception provided in subparagraph (A) does not apply to fees and charges levied pursuant to Chapter 6 (commencing with Section 17620) of Part 10.5 of Division 1 of Title 1 of the Education Code.

(c) (1) If any fee or charge specified in subdivision (a) is not fully paid prior to issuance of a building permit for construction of any portion of the residential development encumbered thereby, the local agency issuing the building permit may require the property owner, or lessee if the lessee's interest appears of record, as a condition of issuance of the building permit, to execute a contract to pay the fee or charge, or applicable portion thereof, within the time specified in subdivision (a). If the fee or charge is prorated pursuant to subdivision (a), the obligation under the contract shall be similarly prorated.

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(2) The obligation to pay the fee or charge shall inure to the benefit of, and be enforceable by, the local agency that imposed the fee or charge, regardless of whether it is a party to the contract. The contract shall contain a legal description of the property affected, shall be recorded in the office of the county recorder of the county and, from the date of recordation, shall constitute a lien for the payment of the fee or charge, which shall be enforceable against successors in interest to the property owner or lessee at the time of issuance of the building permit. The contract shall be recorded in the grantor-grantee index in the name of the public agency issuing the building permit as grantee and in the name of the property owner or lessee as grantor. The local agency shall record a release of the obligation, containing a legal description of the property, in the event the obligation is paid in full, or a partial release in the event the fee or charge is prorated pursuant to subdivision (a).

(3) The contract may require the property owner or lessee to provide appropriate notification of the opening of any escrow for the sale of the property for which the building permit was issued and to provide in the escrow instructions that the fee or charge be paid to the local agency imposing the same from the sale proceeds in escrow prior to disbursing proceeds to the seller.

(d) This section applies only to fees collected by a local agency to fund the construction of public improvements or facilities. It does not apply to fees collected to cover the cost of code enforcement or inspection services, or to other fees collected to pay for the cost of enforcement of local ordinances or state law.

(e) "Final inspection" or "certificate of occupancy," as used in this section, have the same meaning as described in Sections 305 and 307 of the Uniform Building Code, International Conference of Building Officials, 1985 edition.

(f) Methods of complying with the requirement in subdivision (b) that a proposed construction schedule or plan be adopted, include, but are not limited to, (1) the adoption of the capital improvement plan described in Section 66002, or (2) the submittal of a five-year plan for construction and rehabilitation of school facilities pursuant to subdivision (c) of Section 17017.5 of the Education Code.

(g) A local agency may defer the collection of one or more fees up to the close of escrow. This subdivision shall not apply to fees and charges levied pursuant to Chapter 6 (commencing with Section 17620) of Part 10.5 of Division 1 of Title 1 of the Education Code.

[PROCEED TO PAGE 6.50]

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GOVERNMENT CODE 66008

EXPENDITURES; AUTHORIZED PURPOSES

A local agency shall expend a fee for public improvements, as accounted for pursuant to Section 66006, solely and exclusively for the purpose or purposes, as identified in subdivision (f) of Section 66006, for which the fee was collected. The fee shall not be levied, collected, or imposed for general revenue purposes.

GOVERNMENT CODE 66016

LOCAL AGENCY FEES; NEW FEES AND INCREASES; PROCEDURES

(a) Prior to levying a new fee or service charge, or prior to approving an increase in an existing fee or service charge, a local agency shall hold at least one open and public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the data required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the local agency for mailed notice of the meeting on new or increased fees or service charges. Any written request for mailed

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notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service. At least 10 days prior to the meeting, the local agency shall make available to the public data indicating the amount of cost, or estimated cost, required to provide the service for which the fee or service charge is levied and the revenue sources anticipated to provide the service, including General Fund revenues. Unless there has been voter approval, as prescribed by Section 66013 or 66014, no local agency shall levy a new fee or service charge or increase an existing fee or service charge to an amount which exceeds the estimated amount required to provide the service for which the fee or service charge is levied. If, however, the fees or service charges create revenues in excess of actual cost, those revenues shall be used to reduce the fee or service charge creating the excess.

(b) Any action by a local agency to levy a new fee or service charge or to approve an increase in an existing fee or service charge shall be taken only by ordinance or resolution. The legislative body of a local agency shall not delegate the authority to adopt a new fee or service charge, or to increase a fee or service charge.

(c) Any costs incurred by a local agency in conducting the meeting or meetings required pursuant to subdivision (a) may be recovered from fees charged for the services which were the subject of the meeting.

(d) This section shall apply only to fees and charges as described in Sections 51287, 56383, 65104, 65456, 65584.1, 65863.7, 65909.5, 66013, 66014, and 66451.2 of this code, Sections 17951, 19132.3, and 19852 of the Health and Safety Code, Section 41901 of the Public Resources Code, and Section 21671.5 of the Public Utilities Code.

(e) Any judicial action or proceeding to attack, review, set aside, void, or annul the ordinance, resolution, or motion levying a fee or service charge subject to this section shall be brought pursuant to Section 66022.

GOVERNMENT CODE SECTION 66017

DEVELOPMENT PROJECTS; ADOPTION OR INCREASE OF FEES AND CHARGES

(a) Any action adopting a fee or charge, or increasing a fee or charge adopted, upon a development project, as defined in Section 66000, which applies to the filing, accepting, reviewing, approving or issuing of an application, permit, or entitlement to use shall be

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enacted in accordance with the notice and public hearing procedures specified in Section 54986 or 66016 and shall be effective no sooner than 60 days following the final action on the adoption of the fee or charge or increase in the fee or charge.

(b) Without following the procedure otherwise required for the adoption of a fee or charge, or increasing a fee or charge, the legislative body of a local agency may adopt an urgency measure as an interim authorization for a fee or charge, or increase in a fee or charge, to protect the public health, welfare and safety. The interim authorization shall require four-fifths vote of the legislative body for adoption. The interim authorization shall have no force or effect 30 days after its adoption. The interim authority shall contain findings describing the current and immediate threat to the public health, welfare and safety. After notice and public hearing pursuant to Section 54986 or 66016, the legislative body may extend the interim authority for an additional 30 days. Not more than two extensions may be granted. Any extension shall also require a four-fifths vote of the legislative body.

GOVERNMENT CODE SECTION 66018

HEARING

(a) Prior to adopting an ordinance, resolution, or other legislative enactment adopting a new fee or approving an increase in an existing fee to which this section applies, a local agency shall hold a public hearing, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, shall be published in accordance with Section 6062a.

(b) Any costs incurred by a local agency in conducting the hearing required pursuant to subdivision (a) may be recovered as part of the fees which were the subject of the hearing.
(c) This section applies only to the adopting or increasing of fees to which a specific statutory notice requirement, other than Section 54954.2, does not apply.

(d) As used in this section, "fees" do not include rates or charges for water, sewer, or electrical service.

GOVERNMENT CODE SECTION 66019

ADOPTION OR INCREASE OF FEES; WRITTEN REQUEST FOR MAILED NOTICE OF MEETINGS; ELECTRONIC MAIL NOTIFICATION

a) As used in this section:

(1) "Fee" means a fee as defined in Section 66000, but does not include any of the following:

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(A) A fee authorized pursuant to Section 66013.

(B) A fee authorized pursuant to Section 17620 of the Education Code, or Sections 65995.5 and 65995.7.

(C) Rates or charges for water, sewer, or electrical services.

(D) Fees subject to Section 66016.

(2) "Party" means a person, entity, or organization representing a group of people or entities.

(3) "Public facility" means a public facility as defined in Section 66000.

(b) For any fee, notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the data required by this subdivision is available shall be mailed at least 14 days prior to the first meeting to an interested party who files a written request with the city, county, or city and county for mailed notice of a meeting on a new or increased fee to be enacted by the city, county, or city and county. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The legislative body of the city, county, or city and county may establish a reasonable annual charge for sending notices based on the estimated cost of providing the service. The legislative body may send the notice electronically. At least 10 days prior to the meeting, the city, county, or city and county shall make available to the public the data indicating the amount of cost, or the estimated cost, required to provide the public facilities and the revenue sources anticipated to fund those public facilities, including general fund revenues. The new or increased fee shall be effective no earlier than 60 days following the final action on the adoption or increase of the fee, unless the city, county, or city and county follows the procedures set forth in subdivision (b) of Section 66017.

(c) If a city, county, or city and county receives a request for mailed notice pursuant to this section, or a local agency receives a request for mailed notice pursuant to Section 66016, the city, county, or city and county or other local agency may provide the notice via electronic mail for those who specifically request electronic mail notification. A city, county, city or county, or other local agency that provides electronic mail notification pursuant to this subdivision shall send the electronic mail notification to the electronic mail address indicated in the request. The electronic mail notification authorized by this subdivision shall operate as an alternative to the mailed notice required by this section.

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(d) (1) Any member of the public, including an applicant for a development project, may submit evidence that the city, county, or other local agency's determinations and findings required pursuant to subdivision (a) of Section 66001 are insufficient or that the local agency otherwise failed to comply with this chapter. Evidence submitted pursuant to this subdivision may include, but is not limited to, information regarding the proposed fee calculation, assumptions, or methodology or the calculation, assumptions, or methodology for an existing fee upon which the proposed fee or fee increase is based.

(2) The legislative body of the city, county, or other local agency shall consider any evidence submitted pursuant to paragraph (1) that is timely submitted under this chapter. After consideration of the evidence, the legislative body of the city, county, or other local agency may change or adjust the proposed fee or fee increase if deemed necessary by the legislative body.

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GOVERNMENT CODE SECTION 66020

DEVELOPMENT PROJECTS; EXACTIONS; PROTEST PROCEDURES; REFUNDS

(a) Any party may protest the imposition of any fees, dedications, reservations, or other exactions imposed on a development project, as defined in Section 66000, by a local agency by meeting both of the following requirements:

(1) Tendering any required payment in full or providing satisfactory evidence of arrangements to pay the fee when due or ensure performance of the conditions necessary to meet the requirements of the imposition.

(2) Serving written notice on the governing body of the entity, which notice shall contain all of the following information:

(A) A statement that the required payment is tendered or will be tendered when due, or that any conditions which have been imposed are provided for or satisfied, under protest.

(B) A statement informing the governing body of the factual elements of the dispute and the legal theory forming the basis for the protest.

(b) Compliance by any party with subdivision (a) shall not be the basis for a local agency to withhold approval of any map, plan, permit, zone change, license, or other form of permission, or concurrence, whether discretionary, ministerial, or otherwise, incident to, or necessary for, the development project. This section does not limit the ability of a local agency to ensure compliance with all applicable provisions of law in determining whether or not to approve or disapprove a development project.

(c) Where a reviewing local agency makes proper and valid findings that the construction of certain public improvements or facilities, the need for which is directly attributable to the proposed development, is required for reasons related to the public health, safety, and welfare, and elects to impose a requirement for construction of those improvements or facilities as a condition of approval of the proposed development, then in the event a protest is lodged pursuant to this section, that approval shall be suspended pending withdrawal of the protest, the expiration of the limitation period of subdivision (d) without the filing of an action, or resolution of any action filed. This subdivision confers no new or independent authority for imposing fees, dedications, reservations, or other exactions not presently governed by other law.

(d) (1) A protest filed pursuant to subdivision (a) shall be filed at the time of approval or conditional approval of the development or within 90 days after the date of the imposition of the fees, dedications, reservations, or other exactions to be imposed on a development project. Each local agency shall provide to the project applicant a notice in writing at the time of the approval of the project or at

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the time of the imposition of the fees, dedications, reservations, or other exactions, a statement of the amount of the fees or a description of the dedications, reservations, or other exactions, and notification that the 90-day approval period in which the applicant may protest has begun.

(2) Any party who files a protest pursuant to subdivision (a) may file an action to attack, review, set aside, void, or annul the imposition of the fees, dedications, reservations, or other exactions imposed on a development project by a local agency within 180 days after the delivery of the notice. Thereafter, notwithstanding any other law to the contrary, all persons are barred from any action or proceeding or any defense of invalidity or unreasonableness of the imposition. Any proceeding brought pursuant to this subdivision shall take precedence over all matters of the calendar of the court except criminal, probate, eminent domain, forcible entry, and unlawful detainer proceedings.

(e) If the court finds in favor of the plaintiff in any action or proceeding brought pursuant to subdivision (d), the court shall direct the local agency to refund the unlawful portion of the payment, with interest at the rate of 8 percent per annum, or return the unlawful portion of the exaction imposed.

(f) (1) If the court grants a judgment to a plaintiff invalidating, as enacted, all or a portion of an ordinance or resolution enacting a fee, dedication, reservation, or other exaction, the court shall direct the local agency to refund the unlawful portion of the payment, plus interest at an annual rate equal to the average rate accrued by the Pooled Money Investment Account during the time elapsed since the payment occurred, or to return the unlawful portion of the exaction imposed.

(2) If an action is filed within 120 days of the date at which an ordinance or resolution to establish or modify a fee, dedication, reservation, or other exactions to be imposed on a development project takes effect, the portion of the payment or exaction invalidated shall also be returned to any other person who, under protest pursuant to this section and under that invalid portion of that same ordinance or resolution as enacted, tendered the payment or provided for or satisfied the exaction during the period from 90 days prior to the date of the filing of the action which invalidates the payment or exaction to the date of the entry of the judgment referenced in paragraph (1).

(g) Approval or conditional approval of a development occurs, for the purposes of this section, when the tentative map, tentative parcel map, or parcel map is approved or conditionally approved or when the parcel map is recorded if a tentative map or tentative parcel map is not required.

(h) The imposition of fees, dedications, reservations, or other exactions occurs, for the purposes of this section, when they are imposed or levied on a specific development.

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GOVERNMENT CODE SECTION 66023

REQUESTS FOR AUDITS OF LOCAL AGENCY FEES OR CHARGES; INDEPENDENT AUDITORS; FEE ADJUSTMENTS; DEPOSIT OF ESTIMATED COSTS; STANDARDS AND PROCEDURES; LEGISLATIVE INTENT; LOCAL AGENCY AUTHORITY

(a) Any person may request an audit in order to determine whether any fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of any product, public facility, as defined in Section 66000, or service provided by the local agency. If a person makes that request, the legislative body of the local agency may retain an independent auditor to conduct an audit to determine whether the fee or charge is reasonable, but is not required to conduct the audit if an audit has been performed for the same fee within the previous 12 months.

(b) To the extent that the audit determines that the amount of any fee or charge does not meet the requirements of this section, the local agency shall adjust the fee accordingly. This subdivision does not apply to a fee authorized pursuant to Section 17620 of the Education Code, or Sections 65995.5 and 65995.7.

(c) Except as otherwise provided in subdivision (h), the local agency shall retain an independent auditor to conduct an audit only if the person who requests the audit deposits with the local agency the amount of the local agency's reasonable estimate of the cost of the independent audit. At the conclusion of the audit, the local agency shall reimburse unused sums, if any, or the requesting person shall pay the local agency the excess of the actual cost of the audit over the sum which was deposited.

(d) Any audit conducted by an independent auditor to determine whether a fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of providing the product or service shall conform to generally accepted auditing standards.

(e) The procedures specified in this section shall be alternative and in addition to those specified in Section 54985.

(f) The Legislature finds and declares that oversight of local agency fees is a matter of statewide interest and concern. It is, therefore, the intent of the Legislature that this chapter shall supersede all conflicting local laws and shall apply in charter cities.

(g) This section shall not be construed as granting any additional authority to any local agency to levy any fee or charge which is not otherwise authorized by another provision of law, nor shall its provisions be construed as granting authority to any local agency to levy a new fee or charge when other provisions of law specifically prohibit the levy of a fee or charge.

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(h) (1) The local agency shall not require a deposit for an independent audit requested pursuant to this section and shall pay the cost of the audit.

(2) The independent audit conducted shall include each consecutive year the local agency did not comply with subdivision (b) of Section 66006.

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HEALTH AND SAFETY CODE SECTION 1569.2

DEFINITIONS

As used in this chapter:

(a) "Administrator" means the individual designated by the licensee to act on behalf of the licensee in the overall management of the facility. The licensee, if an individual, and the administrator may be one and the same person.

(b) "Beneficial ownership interest" means an ownership interest through the possession of stock, equity in capital, or any interest in the profits of the applicant or licensee, or through the possession of such an interest in other entities that directly or indirectly hold an interest in the applicant or licensee. The percentage of beneficial ownership in the applicant or licensee that is held by any other entity is determined by multiplying the other entities' percentage of ownership interest at each level.

(c) "Care and supervision" means the facility assumes the responsibility for, or provides or promises to provide in the future, ongoing assistance with activities of daily living without which the resident's physical health, mental health, safety or welfare would be endangered. Assistance includes assistance with taking medications, money management, or personal care.

(d) "Chain" means a group of two or more licensees that are controlled, as defined in this section, by the same persons or entities.

(e) "Control" means the ability to direct the operation or management of the applicant or licensee and includes the ability to exercise control through intermediary or subsidiary entities.

(f) "Department" means the State Department of Social Services.

(g) "Director" means the Director of Social Services.

(h) "Health-related services" mean services that shall be directly provided by an appropriate skilled professional, including a registered nurse, licensed vocational nurse, physical therapist, or occupational therapist.

(i) "Instrumental activities of daily living" means any of the following: housework, meals, laundry, taking of medication, money management, appropriate transportation, correspondence, telephoning, and related tasks.

(j) "License" means a basic permit to operate a residential care facility for the elderly.

(k) "Parent organization" means an organization in control of another organization either directly or through one or more intermediaries.

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(l) "Personal activities of daily living" means any of the following: dressing, feeding, toileting, bathing, grooming, and mobility and associated tasks.

(m) "Personal care" means assistance with personal activities of daily living, to help provide for and maintain physical and psychosocial comfort.

(n) "Protective supervision" means observing and assisting confused residents, including persons with dementia, to safeguard them against injury.

(o) (1) "Residential care facility for the elderly" means a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, or personal care are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in a residential care facility for the elderly as specified in Section 1569.316.

(2) This subdivision shall be operative only until the enactment of legislation implementing the three levels of care in residential care facilities for the elderly pursuant to Section 1569.70.

(p) (1) "Residential care facility for the elderly" means a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, personal care, or health-related services are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility. Persons under 60 years of age with compatible needs may be allowed to be admitted or retained in a residential care facility for the elderly as specified in Section 1569.316.

(2) This subdivision shall become operative upon the enactment of legislation implementing the three levels of care in residential care facilities for the elderly pursuant to Section 1569.70.

(q) "Sundowning" means a condition in which persons with cognitive impairment experience recurring confusion, disorientation, and increasing levels of agitation that coincide with the onset of late afternoon and early evening.

(r) "Supportive services" means resources available to the resident in the community that help to maintain their functional ability and meet their needs as identified in the individual resident assessment. Supportive services may include any of the following: medical, dental, and other health care services; transportation; recreational and leisure activities; social services; and counseling services.

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HEALTH AND SAFETY CODE SECTION 50519

RESIDENTIAL HOTELS; MODEL CODE FOR REHABILITATION; FINANCING AND LOAN INSURANCE; CONTRACTS FOR IMPROVEMENT PROJECTS

(a) The Legislature finds and declares that the need for decent housing among individuals of very low and low income is great, and that residential hotels are often the only form of housing affordable to these individuals. Many residential hotels are in poor condition and in need of rehabilitation, and many are being demolished or converted to other uses. The state can play an important role in preserving the existence and improving the quality of this housing resource through sponsoring demonstration projects that will enable local sponsors to acquire, rehabilitate, maintain, or otherwise protect and improve residential hotels as a housing resource for persons of very low and low income. The demonstration projects should be undertaken and designed so as to demonstrate the feasibility of innovative methods of protecting and improving residential hotels and of improving their habitability while assuring their continued availability to persons of very low and low income.

(b) The following definitions govern the construction of this section:

(1) "Residential hotel" means any building containing six or more guestrooms or efficiency units, as defined by Section 17958.1, intended or designed to be used, or which are used, rented, or hired out, to be occupied, or which are occupied, for sleeping purposes by guests, which is also the primary residence of those guests, but does not mean any building containing six or more guestrooms or efficiency units, as defined by Section 17958.1, which is primarily used by transient guests who do not occupy that building as their primary residence.

(2) "Sponsor" means a local government or nonprofit housing sponsor.

(3) "Persons of low income" shall have the same meaning as persons of low income as defined in Section 50093 of the Health and Safety Code.

(c) The department, in conjunction with the State Fire Marshal, shall develop a model code for the rehabilitation of residential hotels. The department shall adopt the code on or before January 1, 1981. The code need not be adopted by any city, county, or city and county. However, those entities may adopt all or part of the code as an alternative to the requirements of the State Housing Law, Part 1.5 (commencing with Section 17910) of Division 13, as that law applies to residential hotels.

The purpose of the standards shall be to protect the health, safety, and welfare of the occupants of those residential hotels, to allow the economically feasible rehabilitation of those residential hotels, and to assure to the extent possible the preservation of those residential hotels as housing for very low and low-income persons.

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(d) The agency shall develop a program of financing and loan insurance for the purpose of assisting the rehabilitation and acquisition of residential hotels serving the housing needs of very low and low-income persons by appropriate sponsors, and shall implement that program on or before January 1, 1981.

In the event that the agency is unable to implement that program, it shall report to the Legislature on or before July 1, 1981, the reasons for its inability to implement that program, and recommend methods by which the agency could implement that program.

(e) The department shall contract, subject to the availability of federal funds, with selected sponsors to acquire, rehabilitate, maintain, or otherwise protect and improve residential hotels as housing for persons of low income. The contracts may provide for grants or loans at an interest rate which the department determines will facilitate the present and future use of residential hotels as housing for persons of very low and low income. Subject to the availability of funds, the department shall contract for the preservation and improvement of at least one residential hotel in a rural area. Subject to restrictions on funds received, the department shall give first priority to residential hotels financed or acquired with assistance from the agency pursuant to subdivision (d).

(f) In connection with contracts let pursuant to subdivision (e), the department shall fix, and may alter from time to time, a schedule of rents as may be necessary to assure affordable rents for persons of low income in residential hotels assisted by funds made available under subdivision (e), and to the extent consistent with the maintenance of the financial integrity of the sponsor of the project and with the requirements for repayment of any funds loaned as established by the department. No local government or nonprofit housing sponsor receiving funds through the provisions of subdivision (e) shall alter rents without the prior permission of the department, which permission shall be given only if the sponsor demonstrates that the alteration is necessary to defray necessary operating costs and to avoid jeopardizing the fiscal integrity of the sponsor or to maintain affordable rents to the residents in the project. If the department does not act upon a request for a rent increase within 60 days, the increase shall be deemed approved. In connection with contracts authorized by subdivision (e), the department may determine standards for the selection by sponsors of the tenants for units in projects funded by contracts pursuant to subdivision (e). The authority of the department to fix and alter rents pursuant to this subdivision shall apply only to units within residential hotels that receive assistance pursuant to subdivision (e).

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HEALTH AND SAFETY CODE SECTION 50710

CONTRACTS WITH LOCAL AGENCIES

The Director of Housing and Community Development may contract with school districts, housing authorities, health agencies, and other appropriate local public and private nonprofit agencies, for the procurement, or construction of housing or shelter and to obtain services for migratory agricultural workers in the fields of education and sanitation, to obtain day care services for the children of those workers, and the director may adopt regulations as the director deems necessary in order to provide that housing service. Notwithstanding any other provision of law, contracts made pursuant to this chapter are deemed to be for local assistance. Notwithstanding any other law, the director may provide for advance payments of up to 20 percent of annual operating costs of the migrant farm labor center to contractors, provided that the contractors do not have outstanding advance balances from the prior contract periods.

PUBLIC RESOURCES CODE SECTION 21000

LEGISLATIVE INTENT

The Legislature finds and declares as follows:

(a) The maintenance of a quality environment for the people of this state now and in the future is a matter of statewide concern.

(b) It is necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of man.

(c) There is a need to understand the relationship between the maintenance of high-quality ecological systems and the general welfare of the people of the state, including their enjoyment of the natural resources of the state.

(d) The capacity of the environment is limited, and it is the intent of the Legislature that the government of the state take immediate steps to identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds being reached.

(e) Every citizen has a responsibility to contribute to the preservation and enhancement of the environment.

(f) The interrelationship of policies and practices in the management of natural resources and waste disposal requires systematic and concerted efforts by public and private interests to enhance environmental quality and to control environmental pollution.

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(g) It is the intent of the Legislature that all agencies of the state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian.

CALIFORNIA CODE OF REGULATIONS (CCR)

TITLE 14.
SECTION 15062. NOTICE OF EXEMPTION

(a) When a public agency decides that a project is exempt from CEQA pursuant to Section 15061, and the public agency approves or determines to carry out the project, the agency may file a notice of exemption. The notice shall be filed, if at all, after approval of the project. Such a notice shall include:

(1) A brief description of the project,

(2) The location of the project (either by street address and cross street for a project in an urbanized area or by attaching a specific map, preferably a copy of a U.S.G.S. 15'or 7-1/2' topographical map identified by quadrangle name).

(3) A finding that the project is exempt from CEQA, including a citation to the State Guidelines section or statute under which it is found to be exempt,

(4) A brief statement of reasons to support the finding, and

(5) The applicant's name, if any.

(6) If different from the applicant, the identity of the person undertaking the project which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies or the identity of the person receiving a lease, permit, license, certificate, or other entitlement for use from one or more public agencies.

(b) A notice of exemption may be filled out and may accompany the project application through the approval process. The notice shall not be filed with the county clerk or OPR until the project has been approved.

(c) When a public agency approves an applicant's project, either the agency or the applicant may file a notice of exemption.

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(b) A notice of exemption may be filled out and may accompany the project application through the approval process. The notice shall not be filed with the county clerk or OPR until the project has been approved.

(c) When a public agency approves an applicant's project, either the agency or the applicant may file a notice of exemption.

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(1) When a state agency files this notice, the notice of exemption shall be filed with the Office of Planning and Research. A form for this notice is provided in Appendix E. A list of all such notices shall be posted on a weekly basis at the Office of Planning and Research, 1400 Tenth Street, Sacramento, California. The list shall remain posted for at least 30 days. The Office of Planning and Research shall retain each notice for not less than 12 months.

(2) When a local agency files this notice, the notice of exemption shall be filed with the county clerk of each county in which the project will be located. Copies of all such notices will be available for public inspection and such notices shall be posted within 24 hours of receipt in the office of the county clerk. Each notice shall remain posted for a period of 30 days. Thereafter, the clerk shall return the notice to the local agency with a notation of the period it was posted. The local agency shall retain the notice for not less than 12 months.

(3) All public agencies are encouraged to make postings pursuant to this section available in electronic format on the Internet. Such electronic postings are in addition to the procedures required by these guidelines and the Public Resources Code.

(4) When an applicant files this notice, special rules apply.

(A) The notice filed by an applicant is filed in the same place as if it were filed by the agency granting the permit. If the permit was granted by a state agency, the notice is filed with the Office of Planning and Research. If the permit was granted by a local agency, the notice is filed with the county clerk of the county or counties in which the project will be located.

(B) The notice of exemption filed by an applicant shall contain the information required in subdivision (a) together with a certified document issued by the public agency stating that the agency has found the project to be exempt. The certified document may be a certified copy of an existing document or record of the public agency.

(C) A notice filed by an applicant is subject to the same posting and time requirements as a notice filed by a public agency.

(d) The filing of a Notice of Exemption and the posting on the list of notices start a 35 day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. If a Notice of Exemption is not filed, a 180 day statute of limitations will apply.

(e) When a local agency determines that a project is not subject to CEQA under sections 15193, 15194, or 15195, and it approves or determines to carry out that project, the local agency or person seeking project approval shall file a notice with OPR identifying the section under which the exemption is claimed.

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CALIFORNIA CODE OF REGULATIONS (CCR)

TITLE 14.
SECTION 15268. MINISTERIAL PROJECTS.

(a) Ministerial projects are exempt from the requirements of CEQA. The determination of what is "ministerial" can most appropriately be made by the particular public agency involved based upon its analysis of its own laws, and each public agency should make such determination either as a part of its implementing regulations or on a case-by-case basis.

(b) In the absence of any discretionary provision contained in the local ordinance or other law establishing the requirements for the permit, license, or other entitlement for use, the following actions shall be presumed to be ministerial:

(1) Issuance of building permits.

(2) Issuance of business licenses.

(3) Approval of final subdivision maps.

(4) Approval of individual utility service connections and disconnections.

(c) Each public agency should, in its implementing regulations or ordinances, provide an identification or itemization of its projects and actions which are deemed ministerial under the applicable laws and ordinances.

(d) Where a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA.

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