

AMENDED IN ASSEMBLY MARCH 25, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1273

Introduced by Assembly Member Brough

February 21, 2019

An act to amend Section ~~66483~~ 66484.3 of the Government Code, relating to ~~land use~~ transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1273, as amended, Brough. ~~Subdivision Map Act: fees: County of Orange: joint exercise of powers agreements: toll roads.~~

The Joint Exercise of Powers Act generally authorizes 2 or more public agencies, by agreement, to jointly exercise any common power. Existing law authorizes the County of Orange and the cities in that county, by ordinance, to require the payment of development fees, as specified, for purposes of defraying the costs of constructing bridges and major thoroughfares. Existing law authorizes those entities to form a joint powers agency for specified purposes, including constructing bridges and major thoroughfares, collecting tolls for the use of those facilities, and incurring indebtedness for the construction of those facilities. Pursuant to this authority, various toll roads in the County of Orange were constructed.

This bill would limit the expenditure of those development fees to the maintenance, operation, or financing of a completed toll facility that is in service on January 1, 2020, and for which indebtedness was incurred. The bill would prohibit those entities, on and after January 1, 2020, from forming a new joint powers agency to construct bridge facilities or major thoroughfares under that specific authorization or the general authorization. The bill would prohibit a joint powers agency

formed under that specific authorization before January 1, 2020, from designing, planning, developing, or constructing any of those facilities on or after January 1, 2020. The bill would prohibit a joint powers agency formed under that specific authorization from incurring new bonded indebtedness, except for specified purposes. The bill would make other related changes.

Existing law authorizes a joint powers agency created for these purposes to make certain toll revenues and fees available as a loan to other specified joint powers agencies to pay for the cost of construction and toll collection of major thoroughfares other than those for which the toll or fee is charged if specified requirements are met and findings are made.

This bill would delete that provision.

Existing law authorizes an entity constructing bridge facilities or major thoroughfares pursuant to the above-described provisions to transfer all or a portion of those facilities to the state, subject to terms and conditions that are satisfactory to the Director of Transportation.

This bill would require any facility constructed under these provisions and operated as a toll road to be transferred to the state after any indebtedness has been repaid subject to terms and conditions that are satisfactory to the Director of Transportation. After the facilities have been transferred to the state, the bill would prohibit the imposition of a toll for the use of these facilities.

~~The Subdivision Map Act authorizes a local agency to adopt an ordinance that includes a requirement for the payment of fees for purposes of defraying the actual or estimated costs of constructing planned drainage facilities for the removal of surface and storm waters from local or neighborhood drainage areas and of constructing planned sanitary sewer facilities for local sanitary sewer areas if, among other specified conditions, the ordinance has been in effect for a period of at least 30 days prior to the filing of a tentative map or parcel map if no tentative map is required.~~

~~This bill would extend the period of time the ordinance is required to be in effect to 60 days prior to the filing of a tentative map or parcel map if no tentative map is required.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 66484.3 of the Government Code is*
2 *amended to read:*

3 66484.3. (a) Notwithstanding Section 66007, the Board of
4 Supervisors of the County of Orange and the city council or
5 councils of any city or cities in that county may, by ordinance,
6 require the payment of a fee as a condition of approval of a final
7 map or as a condition of issuing a building permit for purposes of
8 defraying the actual or estimated cost of constructing *or financing*
9 bridges over waterways, railways, freeways, and canyons, or
10 constructing major ~~thoroughfares~~ *thoroughfares completed on or*
11 *before January 1, 2020, and in service on January 1, 2020.*

12 (b) The local ordinance may require payment of fees pursuant
13 to this section ~~if~~ *if the ordinance includes all of the following:*

14 (1) *The ordinance provides that the bridges and major*
15 *thoroughfares are designed and approved as landscaped, grade*
16 *separated scenic toll highway corridors that include four to six*
17 *general purpose travel lanes with medians or other areas wide*
18 *enough to accommodate any necessary high-occupancy vehicle*
19 *or special transit requirements and are not part of an interstate*
20 *freeway or local arterial.*

21 (2) *The ordinance limits the expenditure of the fee to the*
22 *maintenance, operation, or financing of a completed facility*
23 *described in paragraph (1) that is in service on January 1, 2020,*
24 *and for which indebtedness was incurred pursuant to subdivision*
25 *(f).*

26 (+)

27 (3) *The ordinance refers to the circulation element of the general*
28 *plan and, in the case of bridges, to the transportation provisions*
29 *or flood control provisions of the general plan which that identify*
30 *railways, freeways, streams, or canyons for which bridge crossings*
31 *are required on the general plan or local roads, and in the case of*
32 *major thoroughfares, to the provisions of the circulation element*
33 *which that identify those major thoroughfares whose primary*
34 *purpose is to carry through traffic and provide a network*
35 *connecting to or which that is part of the state highway system,*
36 *and the circulation element, transportation provisions, or flood*
37 *control provisions have been adopted by the local agency 30 days*
38 *prior to before the filing of a map or application for a building*

1 permit. Bridges ~~which~~ *that* are part of a major thoroughfare need
2 not be separately identified in the transportation or flood control
3 provisions of the general plan.

4 ~~(2)~~

5 (4) The ordinance provides that there will be a public hearing
6 held by the governing body for each area benefited. Notice shall
7 be given pursuant to Section 65905. In addition to the requirements
8 of Section 65905, the notice shall contain preliminary information
9 related to the boundaries of the area of benefit, estimated cost, and
10 the method of fee apportionment. The area of benefit may include
11 land or improvements in addition to the land or improvements
12 ~~which~~ *that* are the subject of any map or building permit application
13 considered at the proceedings.

14 ~~(3)~~

15 (5) The ordinance provides that at the public hearing, the
16 boundaries of the area of benefit, the costs, whether actual or
17 estimated, and a fair method of allocation of costs to the area of
18 benefit and fee apportionment are established. The method of fee
19 apportionment, in the case of major thoroughfares, shall not provide
20 for higher fees on land ~~which~~ *that* abuts the proposed improvement
21 except where the abutting property is provided direct usable access
22 to the major thoroughfare. A description of the boundaries of the
23 area of benefit, the costs, whether actual or estimated, and the
24 method of fee apportionment established at the hearing shall be
25 incorporated in a resolution of the governing body, a certified copy
26 of which shall be recorded by the governing body conducting the
27 hearing with the recorder of the County of Orange. The resolution
28 may subsequently be modified in any respect by the governing
29 body. Modifications shall be adopted in the same manner as the
30 original resolution, except that the resolution of a city or county
31 ~~which~~ *that* has entered into a joint exercise of powers agreement
32 pursuant to subdivision (f), relating to constructing bridges over
33 waterways, railways, freeways, and canyons or constructing major
34 thoroughfares by the joint powers agency, may be modified by the
35 joint powers agency following public notice and a public hearing,
36 if the joint powers agency has complied with all applicable laws,
37 including Chapter 5 (commencing with Section 66000) of Division
38 1. Any modification shall be subject to the protest procedures
39 prescribed by paragraph ~~(6)~~ (8). The resolution may provide for
40 automatic periodic adjustment of fees based upon the California

1 Construction Cost Index prepared and published by the Department
2 of Transportation, without further action of the governing body,
3 including, but not limited to, public notice or hearing. The
4 apportioned fees shall be applicable to all property within the area
5 of benefit and shall be payable as a condition of approval of a final
6 map or as a condition of issuing a building permit for any of the
7 property or portions of the property. Where the area of benefit
8 includes lands not subject to the payment of fees pursuant to this
9 section, the governing body shall ~~make provision~~ *provide* for
10 payment of the share of improvement costs apportioned to those
11 lands from other sources, but those sources need not be identified
12 at the time of the adoption of the resolution.

13 (4)

14 (6) The ordinance provides that payment of fees shall not be
15 required unless the major thoroughfares are in addition to, or a
16 reconstruction or widening of, any existing major thoroughfares
17 serving the area ~~at the time of the adoption of the boundaries of~~
18 ~~the area of benefit.~~ *on January 1, 2020.*

19 (5)

20 (7) The ordinance provides that payment of fees shall not be
21 required unless the planned bridge facility is an original bridge
22 serving the area or an addition to any existing bridge facility
23 serving the area ~~at the time of the adoption of the boundaries of~~
24 ~~the area of benefit.~~ Fees imposed pursuant to this section shall not
25 ~~be expended to reimburse the cost of existing bridge facility~~
26 ~~construction, unless these costs are incurred in connection with~~
27 ~~the construction of an addition to an existing bridge for which fees~~
28 ~~may be required.~~ *on January 1, 2020.*

29 (6)

30 (8) (A) The ordinance provides that if, within the time when
31 protests may be filed under its provisions, there is a written protest,
32 filed with the clerk of the legislative body, by the owners of more
33 than one-half of the area of the property to be benefited by the
34 improvement, and sufficient protests are not withdrawn so as to
35 reduce the area represented to less than one-half of that to be
36 benefited, then the proposed proceedings shall be abandoned, and
37 the legislative body shall not, for one year from the filing of that
38 written protest, commence or carry on any proceedings for the
39 same improvement or acquisition under this section, unless the

1 protests are overruled by an affirmative vote of four-fifths of the
2 legislative body.

3 ~~Nothing~~

4 (B) ~~Nothing~~ in this section shall preclude the processing and
5 recordation of maps in accordance with other provisions of this
6 division if proceedings are abandoned.

7 ~~Any~~

8 (C) ~~Any~~ protests may be withdrawn in writing by the owner
9 who filed the protest, at any time ~~prior to~~ before the conclusion of
10 a public hearing held pursuant to the ordinance.

11 ~~If~~

12 (D) ~~If~~ any majority protest is directed against only a portion of
13 the improvement then all further proceedings under the provisions
14 of this section to construct that portion of the improvement so
15 protested against shall be barred for a period of one year, but the
16 legislative body shall not be barred from commencing new
17 proceedings not including any part of the improvement or
18 acquisition so protested against. ~~Nothing in this~~ This section ~~shall~~
19 ~~does not~~ prohibit the legislative body, within the one-year period,
20 from commencing and carrying on new proceedings for the
21 construction of a portion of the improvement so protested against
22 if it finds, by the affirmative vote of four-fifths of its members,
23 that the owners of more than one-half of the area of the property
24 to be benefited are in favor of going forward with that portion of
25 the improvement or acquisition.

26 ~~If~~

27 (E) ~~If~~ the provisions of this paragraph, or provisions
28 implementing this paragraph contained in any ordinance adopted
29 pursuant to this section, are held invalid, that invalidity shall not
30 affect other provisions of this section or of the ordinance adopted
31 pursuant ~~thereto, to this section~~, which can be given effect without
32 the invalid provision, and to this end the provisions of this section
33 and of an ordinance adopted ~~thereto to this section~~ are
34 severable.

35 (c) Fees paid pursuant to an ordinance adopted pursuant to this
36 section shall be deposited in a planned bridge facility or major
37 thoroughfare fund. A fund shall be established for each planned
38 bridge facility project or each planned major thoroughfare project.
39 If the benefit area is one in which more than one bridge or major
40 thoroughfare is required to be constructed, a fund may be so

1 established covering all of the bridge or major thoroughfare
2 projects in the benefit area. Except as otherwise provided in
3 subdivision ~~(g)~~; (h), moneys in the fund shall be expended solely
4 for the construction or reimbursement for construction of the
5 improvement serving the area to be benefited and from which the
6 fees comprising the fund were collected, or to reimburse the county
7 or a city for the cost of constructing the improvement.

8 (d) An ordinance adopted pursuant to this section may provide
9 for the acceptance of considerations in lieu of the payment of fees.

10 (e) The county or a city imposing fees pursuant to this section
11 may advance money from its general fund or road fund to pay the
12 cost of constructing the improvements and may reimburse the
13 general fund or road fund from planned bridge facilities or major
14 thoroughfares funds established to finance the construction of the
15 improvements.

16 (f) (1) The county or a city imposing fees pursuant to this
17 section may incur an interest-bearing indebtedness for the
18 construction of bridge facilities or major thoroughfares. The sole
19 security for repayment of the indebtedness shall be moneys in
20 planned bridge facilities or major thoroughfares funds. A city or
21 county imposing fees pursuant to this section ~~may may, before~~
22 *January 1, 2020*, enter into joint exercise of powers agreements
23 with other local agencies imposing fees pursuant to this section,
24 for the purpose of, among others, jointly exercising as a duly
25 authorized original power established by this section, in addition
26 to those through a joint exercise of powers agreement, those powers
27 ~~authorized described~~ in Chapter 5 (commencing with Section
28 31100) of Division 17 of the Streets and Highways Code for the
29 purpose of constructing bridge facilities and major thoroughfares
30 in lieu of a tunnel and appurtenant facilities, and, notwithstanding
31 Section 31200 of the Streets and Highways Code, may acquire by
32 dedication, gift, purchase, or eminent domain, any franchise, rights,
33 privileges, easements, or other interest in property, either real or
34 personal, necessary therefor on segments of the state highway
35 system, including, but not limited to, those segments of the state
36 highway system eligible for federal participation pursuant to Title
37 23 of the United States Code. *A county or city imposing fees*
38 *pursuant to this section shall not, on and after January 1, 2020,*
39 *enter into a joint exercise of powers agreement pursuant to this*
40 *section or Article 1 (commencing with Section 6500) of Chapter*

1 5 of Division 7 of Title 1 to construct bridge facilities or major
2 thoroughfares. A joint powers agency created pursuant to this
3 section before January 1, 2020, may continue to maintain, operate,
4 and pay debt service on any bridges or major thoroughfares
5 authorized pursuant to this section and in service on January 1,
6 2020, but shall not design, plan, develop, or construct any facilities
7 pursuant to this section on or after January 1, 2020.

8 An

9 (2) An entity constructing bridge facilities and major
10 thoroughfares pursuant to this section shall design and construct
11 the bridge facilities and major thoroughfares to the standards and
12 specifications of the Department of Transportation then in effect,
13 and may, at any time, *except as provided in paragraph (4)*, transfer
14 all or a portion of the bridge facilities and major thoroughfares to
15 the state subject to the terms and conditions as shall be satisfactory
16 to the Director of the Department of Transportation. Any of these
17 bridge facilities and major thoroughfares shall be designated as a
18 portion of the state highway system ~~prior to~~ before its transfer.
19 The participants in a joint exercise of powers agreement may also
20 exercise as a duly authorized original power established by this
21 section the power to establish and collect toll charges only for
22 paying for the costs of construction of the major thoroughfare for
23 which the toll is charged and for the costs of collecting the tolls;
24 ~~except that a joint powers agency, which is the lending agency,~~
25 ~~may, notwithstanding subdivision (c), make toll revenues and fees~~
26 ~~imposed pursuant to this section available to another joint powers~~
27 ~~agency, which is the borrowing agency, established for the purpose~~
28 ~~of designing, financing, and constructing coordinated and~~
29 ~~interrelated major thoroughfares, in the form of a subordinated~~
30 ~~loan, to pay for the cost of construction and toll collection of major~~
31 ~~thoroughfares other than the major thoroughfares for which the~~
32 ~~toll or fee is charged, if the lending agency has complied with all~~
33 ~~applicable laws, including Chapter 5 (commencing with Section~~
34 ~~66000) of Division 1, and if the borrowing agency is required to~~
35 ~~pay interest on the loan to the lending agency at a rate equal to the~~
36 ~~interest rate charged on funds loaned from the Pooled Money~~
37 ~~Investment Account. Prior to executing the loan, the lending agency~~
38 ~~shall make all of the following findings: tolls.~~

39 (1) ~~The major thoroughfare for which the toll or fee is charged~~
40 ~~will benefit from the construction of the major thoroughfare to be~~

1 constructed by the borrowing agency or will benefit financially
2 by a sharing of revenues with the borrowing agency.

3 (2) ~~The lending agency will possess adequate financial resources~~
4 ~~to fund all costs of construction of existing and future projects that~~
5 ~~it plans to undertake prior to the final maturity of the loan, after~~
6 ~~funding the loan, and taking into consideration its then existing~~
7 ~~funds, its present and future obligations, and the revenues and fees~~
8 ~~it expects to receive.~~

9 (3) ~~The funding of the loan will not materially impair its~~
10 ~~financial condition or operations during the term of the loan.~~

11 Major

12 (3) *Major* thoroughfares from *for* which tolls are charged shall
13 ~~utilize~~ *use* the toll collection equipment most capable of moving
14 vehicles expeditiously and efficiently, and ~~which~~ *that* is best suited
15 for that purpose, as determined by the participants in the joint
16 exercise of powers agreement. However, ~~in no event shall the~~
17 ~~powers authorized described~~ in Chapter 5 (commencing with
18 Section 31100) of Division 17 of the Streets and Highways Code
19 ~~shall not be exercised exercised, as authorized in paragraph (1),~~
20 unless a resolution is first adopted by the legislative body of the
21 agency finding that adequate funding for the portion of the cost of
22 constructing those bridge facilities and major thoroughfares not
23 funded by the development fees collected by the agency is not
24 available from any federal, state, or other source. Any major
25 thoroughfare constructed and operated as a toll road pursuant to
26 this section shall only be constructed parallel to other public
27 thoroughfares and highways.

28 (4) *After any indebtedness incurred for the construction of a*
29 *bridge facility or major thoroughfare that is operated as a toll*
30 *road has been repaid, the bridge facility or major thoroughfare*
31 *shall be transferred to the state, subject to the terms and conditions*
32 *as shall be satisfactory to the Director of Transportation. Any of*
33 *these bridge facilities and major thoroughfares shall be designated*
34 *as a portion of the state highway system before its transfer and,*
35 *after its transfer to the state, a toll shall not be imposed for the*
36 *use of these facilities.*

37 (g) *Notwithstanding the powers granted pursuant to subdivision*
38 *(f), a joint powers agency created pursuant to subdivision (f) shall*
39 *not, on or after January 1, 2020, incur bonded indebtedness, except*
40 *that the joint powers agency shall have the authority, rights, and*

1 powers it held before that date only for both of the following
2 purposes:

3 (1) To issue bonds or otherwise incur indebtedness to refund
4 the bonds or other indebtedness incurred before January 1, 2020,
5 or to provide monetary savings to the joint exercise of powers
6 agency if both of the following requirements are met:

7 (A) The total interest cost to maturity on the refunding bonds
8 or other indebtedness plus the principal amount of the refunding
9 bonds or other indebtedness does not exceed the total remaining
10 interest cost to maturity on the bonds or other indebtedness to be
11 refunded plus the remaining principal of the bonds or other
12 indebtedness to be refunded.

13 (B) The principal amount of the refunding bonds or other
14 indebtedness does not exceed the amount required to defease the
15 refunded bonds or other indebtedness, to establish customary debt
16 service reserves, and to pay related costs of issuance. If these
17 conditions are satisfied, the initial principal amount of the
18 refunding bonds or other indebtedness may be greater than the
19 outstanding principal amount of the bonds or other indebtedness
20 to be refunded. The joint powers agency may pledge to the
21 refunding bonds or other indebtedness the revenues pledged to
22 the bonds or other indebtedness being refunded, and that pledge,
23 when made in connection with the issuance of such refunding
24 bonds or other indebtedness, shall have the same lien priority as
25 the pledge of the bonds or other obligations to be refunded, and
26 shall be valid, binding, and enforceable in accordance with its
27 terms.

28 (2) To issue bonds or otherwise incur indebtedness to finance
29 debt service spikes, including balloon maturities if both of the
30 following requirements are met:

31 (A) The existing indebtedness is not accelerated, except to the
32 extent necessary to achieve substantially level debt service.

33 (B) The principal amount of the bonds or other indebtedness
34 does not exceed the amount required to finance the debt service
35 spikes, including establishing customary debt service reserves and
36 paying related costs of issuance.

37 ~~(g)~~

38 (h) The term “construction,” as used in this section, includes
39 design, acquisition of rights-of-way, and actual construction,
40 including, but not limited to, all direct and indirect environmental,

engineering, accounting, legal, administration of construction contracts, and other services necessary therefor. The term “construction” also includes reasonable general agency administrative expenses, not exceeding three hundred thousand dollars (\$300,000) in any calendar year after January 1, 1986, as adjusted annually for any increase or decrease in the Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor for all Urban Consumers, Los Angeles-Long Beach-Anaheim, California (1967=100), as published by the United States Department of Commerce, by each agency created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 for the purpose of constructing bridges and major thoroughfares. “General agency administrative expenses” means those office, personnel, and other customary and normal expenses associated with the direct management and administration of the agency, but not including costs of construction.

(h)

(i) Fees paid pursuant to an ordinance adopted pursuant to this section may be ~~utilized~~ *used* to defray all direct and indirect financing costs related to the construction of the bridges and major thoroughfares by the joint powers agency. Because the financing costs of bridges and major thoroughfares for which a toll charge shall be established or collected represent a necessary element of the total cost of those bridges and major thoroughfares, the joint powers agency constructing those facilities may include a charge for financing costs in the calculation of the fee rate. The charge shall be based on the estimated financing cost of any eligible portion of the bridges and major thoroughfares for which tolls shall be collected. The eligible portion shall be any or all portions of the major thoroughfare for which a viable financial plan has been adopted by the joint powers agency on the basis of revenues reasonably expected by the joint powers agency to be available to the thoroughfare, after consultation with representatives of the fee payers. For purposes of calculating the charge, financing costs shall include only reasonable allowances for payments and charges for principal, interest, and premium on indebtedness, letter of credit fees and charges, remarketing fees and charges, underwriters’ discount, and other costs of issuance, less net earnings on bridge and major thoroughfare funds by the joint powers agency ~~prior to~~ *before* the opening of the facility to traffic after giving effect to

1 any payments from the fund to preserve the federal income tax
2 exemption on the indebtedness. For purposes of calculating the
3 charge for financing costs in the calculation of the fee rate only,
4 financing costs shall not include any allowance for the cost of any
5 interest paid on indebtedness with regard to each eligible portion
6 after the estimated opening of the portion to traffic as established
7 by the joint powers agency. Any and all challenges to any financial
8 plan or financing costs adopted or calculated pursuant to this
9 section shall be governed by subdivision ~~(k)~~: (l).

10 ~~(i) Nothing in this~~

11 (j) This section shall *not* be construed to preclude the County
12 of Orange or any city within that county from providing funds for
13 the construction of bridge facilities or major thoroughfares to
14 defray costs not allocated to the area of benefit.

15 ~~(j)~~

16 (k) Any city within the County of Orange may require the
17 payment of fees in accordance with this section as to any property
18 in an area of benefit within the city's boundaries, for facilities
19 shown on its general plan or the county's general plan, whether
20 the facilities are situated within or outside the boundaries of the
21 city, and the county may expend fees for facilities or portions
22 thereof located within cities in the county.

23 ~~(k)~~

24 (l) The validity of any fee required pursuant to this section shall
25 not be contested in any action or proceeding unless commenced
26 within 60 days after recordation of the resolution described in
27 paragraph ~~(3)~~ (5) of subdivision (b). ~~The provisions of Chapter 9~~
28 ~~(commencing with Section 860) of Title 10 of Part 2 of the Code~~
29 ~~of Civil Procedure shall be applicable~~ *apply* to any such action or
30 proceeding. This subdivision shall also apply to modifications of
31 fee programs.

32 ~~(l)~~

33 (m) If the County of Orange and any city within that county
34 have entered into a joint powers agreement for the purpose of
35 constructing the bridges and major thoroughfares referred to in
36 Sections 50029 and 66484, and if a proposed change of
37 organization or reorganization includes any territory of an area of
38 benefit established pursuant to Sections 50029 and 66484, within
39 a successor local agency, the local agency shall not take any action
40 that would impair, delay, frustrate, obstruct, or otherwise impede

1 the construction of the bridges and major thoroughfares referred
2 to in this section.

3 ~~(m) Nothing in this~~

4 ~~(n) This section prohibits~~ *does not prohibit* the succession of
5 all powers, obligations, liabilities, and duties of any joint powers
6 agency created pursuant to subdivision ~~(f)~~ *(m)* to an entity with
7 comprehensive countywide transportation planning and operating
8 authority ~~which~~ *that* is statutorily created in the County of Orange
9 and ~~which~~ *that* is statutorily authorized to assume those powers,
10 obligations, liabilities, and duties.

11 SECTION 1. ~~Section 66483 of the Government Code is~~
12 ~~amended to read:~~

13 ~~66483. (a) There may be imposed by local ordinance a~~
14 ~~requirement for the payment of fees for purposes of defraying the~~
15 ~~actual or estimated costs of constructing planned drainage facilities~~
16 ~~for the removal of surface and storm waters from local or~~
17 ~~neighborhood drainage areas and of constructing planned sanitary~~
18 ~~sewer facilities for local sanitary sewer areas, subject to the~~
19 ~~following conditions:~~

20 ~~(1) The ordinance has been in effect for a period of at least 60~~
21 ~~days prior to the filing of the tentative map or parcel map if no~~
22 ~~tentative map is required.~~

23 ~~(2) The ordinance refers to a drainage or sanitary sewer plan~~
24 ~~adopted for a particular drainage or sanitary sewer area which~~
25 ~~contains an estimate of the total costs of constructing the local~~
26 ~~drainage or sanitary sewer facilities required by the plan, and a~~
27 ~~map of the area showing its boundaries and the location of such~~
28 ~~facilities.~~

29 ~~(3) The drainage or sanitary sewer plan, in the case of a city~~
30 ~~situated in a county having a countywide general drainage or~~
31 ~~sanitary sewer plan, has been determined by resolution of the~~
32 ~~legislative body of the county to be in conformity with a county~~
33 ~~plan; or in the case of a city situated in a county that does not have~~
34 ~~a plan but in a district that has a plan, has been determined by~~
35 ~~resolution of the legislative body of the district to be in conformity~~
36 ~~with the district general plan; or in the case of a city situated in a~~
37 ~~county that has a plan and in a district that has a plan, has been~~
38 ~~determined by resolution of the legislative body of the county to~~
39 ~~be in conformity with the plan and by resolution of the legislative~~

1 body of the district to be in conformity with the district general
2 plan.

3 ~~(4) The costs, whether actual or estimated, are based upon~~
4 ~~findings by the legislative body which has adopted the local plan,~~
5 ~~that subdivision and development of property within the planned~~
6 ~~local drainage area or local sanitary sewer area will require~~
7 ~~construction of the facilities described in the drainage or sewer~~
8 ~~plan, and that the fees are fairly apportioned within such areas~~
9 ~~either on the basis of benefits conferred on property proposed for~~
10 ~~subdivision or on the need for such facilities created by the~~
11 ~~proposed subdivision and development of other property within~~
12 ~~such areas.~~

13 ~~(5) The fee as to any property proposed for subdivision within~~
14 ~~a local area does not exceed the pro rata share of the amount of~~
15 ~~the total actual or estimated costs of all facilities within the area~~
16 ~~that would be assessable on the property if the costs were~~
17 ~~apportioned uniformly on a per-acre basis.~~

18 ~~(6) The drainage or sanitary sewer facilities planned are in~~
19 ~~addition to existing facilities serving the area at the time of the~~
20 ~~adoption of a plan for the area.~~

21 ~~(b) Fees charged pursuant to this section shall be paid to the~~
22 ~~local public agencies which provide drainage or sanitary sewer~~
23 ~~facilities, and shall be deposited by those agencies into a "planned~~
24 ~~local drainage facilities fund" and a "planned local sanitary sewer~~
25 ~~fund," respectively. Separate funds shall be established for each~~
26 ~~local drainage and sanitary sewer area. Moneys in those funds~~
27 ~~shall be expended solely for the construction or reimbursement~~
28 ~~for construction of local drainage or sanitary sewer facilities within~~
29 ~~the area from which the fees comprising the fund were collected,~~
30 ~~or to reimburse the local agency for the cost of engineering and~~
31 ~~administrative services to form the district and design and construct~~
32 ~~the facilities. The local ordinance may provide for the acceptance~~
33 ~~of considerations in lieu of the payment of fees.~~

34 ~~(c) A local agency imposing or requesting the imposition of,~~
35 ~~fees pursuant to this section, including the agencies providing the~~
36 ~~facilities, may advance money from its general fund to pay the~~
37 ~~costs of constructing facilities within a local drainage or sanitary~~
38 ~~sewer area and reimburse the general fund for those advances from~~
39 ~~the planned local drainage or sanitary sewer facilities fund for the~~

1 ~~local drainage or sanitary sewer area in which the drainage or~~
2 ~~sanitary sewer facilities were constructed.~~
3 ~~(d) A local agency receiving fees pursuant to this section may~~
4 ~~incur an indebtedness for the construction of drainage or sanitary~~
5 ~~sewer facilities within a local drainage or sanitary sewer area;~~
6 ~~provided that the sole security for repayment of that indebtedness~~
7 ~~shall be moneys in the planned local drainage or sanitary sewer~~
8 ~~facilities fund.~~

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