

ASSEMBLY BILL

No. 715

Introduced by Assembly Member Daly

February 25, 2015

An act to amend Section 65995 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

AB 715, as introduced, Daly. Residential development: school facilities fees.

Existing law, the Planning and Zoning Law, limits the amount of fees, charges, dedications, or other requirements levied or imposed by state and local agencies on the planning, use, or development of real property for the construction or reconstruction of school facilities based upon assessable space, as defined. In the case of residential construction, existing law defines assessable space to mean all of the square footage within the perimeter of a residential structure, not including any carport, walkway, garage, overhang, patio, enclosed patio, detached accessory structure, or similar area.

This bill would revise the definition of assessable space to specify that a covered walkway, uncovered walkway, and enclosed walkway are excluded and that similarly excluded areas include, but are not limited to, a bike storage locker or detached personal property storage space that is not a part of the existing livable residential structure.

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

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

SECTION 1. Section 65995 of the Government Code is amended to read:

65995. (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 65970), a fee, charge, dedication, or other requirement for the construction or reconstruction of school facilities ~~may~~ *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.

(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, ~~may~~ *shall* not exceed the following:

(1) In the case of residential construction, including the location, installation, or occupancy of manufactured homes and mobilehomes, 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 walkway, uncovered walkway, enclosed walkway*, garage, overhang, patio, enclosed patio, detached accessory structure, or similar ~~area~~ *area, including, but not limited to, a bike storage locker or detached personal property storage space that is not a part of the existing livable residential structure*. 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 "mobilehome" 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 mobilehomes is subject to Section 17625 of the Education Code.

(2) In the 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 ~~provision of 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 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. “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

1 or more agencies of federal, state, or local government. In addition,
2 “commercial or industrial construction” includes, but is not limited
3 to, any hotel, inn, motel, tourist home, or other lodging for which
4 the maximum term of occupancy for guests does not exceed 30
5 days, but does not include any residential hotel, as defined in
6 paragraph (1) of subdivision (b) of Section 50519 of the Health
7 and Safety Code.

8 (e) The Legislature finds and declares that the financing of
9 school facilities and the mitigation of the impacts of land use
10 approvals, whether legislative or adjudicative, or both, on the need
11 for school facilities are matters of statewide concern. For this
12 reason, the Legislature hereby occupies the subject matter of
13 requirements related to school facilities levied or imposed in
14 connection with, or made a condition of, any land use approval,
15 whether legislative or adjudicative act, or both, and the mitigation
16 of the impacts of land use approvals, whether legislative or
17 adjudicative, or both, on the need for school facilities, to the
18 exclusion of all other measures, financial or nonfinancial, on the
19 subjects. For purposes of this subdivision, “school facilities” means
20 any school-related consideration relating to a school district’s
21 ability to accommodate enrollment.

22 (f) Nothing in this section shall be interpreted to limit or prohibit
23 the use of Chapter 2.5 (commencing with Section 53311) of
24 Division 2 of Title 5 to finance the construction or reconstruction
25 of school facilities. However, the use of Chapter 2.5 (commencing
26 with Section 53311) of Division 2 of Title 5 may not be required
27 as a condition of approval of any legislative or adjudicative act,
28 or both, if the purpose of the community facilities district is to
29 finance school facilities.

30 (g) (1) The refusal of a person to agree to undertake or cause
31 to be undertaken an act relating to Chapter 2.5 (commencing with
32 Section 53311) of Division 2 of Title 5, including formation of,
33 or annexation to, a community facilities district, voting to levy a
34 special tax, or authorizing another to vote to levy a special tax,
35 may not be a factor when considering the approval of a legislative
36 or adjudicative act, or both, involving, but not limited to, the
37 planning, use, or development of real property, or any change in
38 governmental organization or reorganization, as defined in Section
39 56021 or 56073, if the purpose of the community facilities district
40 is to finance school facilities.

1 (2) If a person voluntarily elects to establish, or annex into, a
2 community facilities district and levy a special tax approved by
3 landowner vote to finance school facilities, the present value of
4 the special tax specified in the resolution of formation shall be
5 calculated as an amount per square foot of assessable space and
6 that amount shall be a credit against any applicable fee, charge,
7 dedication, or other requirement for the construction or
8 reconstruction of school facilities. For purposes of this paragraph,
9 the calculation of present value shall use the interest rate paid on
10 the United States Treasury's 30-year bond on the date of the
11 formation of, or annexation to, the community facilities district,
12 as the capitalization rate.

13 (3) For purposes of subdivisions (f), (h), and (i), and this
14 subdivision, "school facilities" means any school-related
15 consideration relating to a school district's ability to accommodate
16 enrollment.

17 (h) The payment or satisfaction of a fee, charge, or other
18 requirement levied or imposed pursuant to Section 17620 of the
19 Education Code in the amount specified in Section 65995 and, if
20 applicable, any amounts specified in Section 65995.5 or 65995.7
21 are hereby deemed to be full and complete mitigation of the
22 impacts of any legislative or adjudicative act, or both, involving,
23 but not limited to, the planning, use, or development of real
24 property, or any change in governmental organization or
25 reorganization as defined in Section 56021 or 56073, on the
26 provision of adequate school facilities.

27 (i) A state or local agency may not deny or refuse to approve a
28 legislative or adjudicative act, or both, involving, but not limited
29 to, the planning, use, or development of real property, or any
30 change in governmental organization or reorganization as defined
31 in Section 56021 or 56073 on the basis of a person's refusal to
32 provide school facilities mitigation that exceeds the amounts
33 authorized pursuant to this section or pursuant to Section 65995.5
34 or 65995.7, as applicable.