
SENATE COMMITTEE ON HOUSING
Senator Nancy Skinner, Chair
2023 - 2024 Regular

Bill No: AB 1820 **Hearing Date:** 7/2/2024
Author: Schiavo
Version: 6/5/2024
Urgency: No **Fiscal:** Yes
Consultant: Alison Hughes

SUBJECT: Housing development projects: applications: fees and exactions

DIGEST: This bill requires local agencies to provide developers with more information on fees and exactions at various stages of the housing development approval process.

ANALYSIS:

Existing law:

- 1) Establishes, under the Mitigation Fee Act, specific requirements a city must follow in establishing or imposing development fees and sets forth a process by which a developer may challenge the imposition of a fee.
- 2) Requires a city, county, or special district (as applicable), pursuant to AB 1483 (Grayson, 2019), to post on its Web site specified information including: a current schedule of mitigation fees, exactions, and affordability requirements applicable to a housing development project; all zoning ordinances and development standards; the current and five previous annual fee reports or annual financial reports; and an archive of impact fee nexus studies, cost of service studies, or equivalent, as specified. Requires this information to be updated within 30 days of any changes.
- 3) Pursuant to the Housing Crisis Act of 2019 (SB 330, Skinner, Chapter 654) prohibits a local agency from applying new rules or standards to a project after a preliminary application containing specified information is submitted. The local agency must also make any required determinations on whether a project site is a historic site when a complete preliminary application is filed.
- 4) Requires local agencies to exhaustively list all information needed to make a development application complete under the Permit Streamlining Act, limits that list to only those items on the checklist for application required by state

law, and prohibits the local agency from requiring additional information. The checklist information must also be posted online.

This bill:

- 1) Provides when a local government requests the fees and exactions associated with a housing development project, the request shall clearly state that the development proponent is not required to respond to the request and will not be subjected to any consequences for not responding or for the content of the response.

Fee transparency at the preliminary application stage

- 2) Defines “fee” as a fee or charge described in the Mitigation Fee Act, as specified, but does not include the cost of providing electrical or gas service from a local publically owned utility or a charge imposed to comply with the California Environmental Quality Act (CEQA).
- 3) Defines “fee and exaction estimate” as a good faith estimate of the total amount of fees and exactions expected to be imposed in connection with the project.
- 4) Authorizes a development proponent who submits a preliminary application to include a request for a preliminary fee and exaction estimate, which the local government shall provide within 30 business days of the submission of the preliminary application.
- 5) Provides that the fee and exaction estimate is for informational purposes and shall not be legally binding or otherwise affect the scope, amount, or time of payment of any fee or exaction that is otherwise determined by other provisions of law.
- 6) Provides that a proponent may request a fee schedule from a local government or special district for specified fees or for the cost of providing electrical or gas service from a local publicly owned utility.

Fee transparency at the project approval stage

- 7) Defines “exaction” as a construction excise tax, a requirement that the housing development project provide public art or an in-lieu payment, dedications of parkland or in-lieu fees, as specified, and a special tax levied on new units pursuant to the Mello-Roos Act, as specified. “Exaction” does not include fees that are not imposed in connection with issuing or approving a permit for

development or as a condition of approval of a proposed development, as specified.

- 8) Defines “fee” as a fee or charge described in the Mitigation Fee Act, and does not include the cost of providing electrical or gas service from a local publicly owned utility.
- 9) Requires, upon approval of a housing development project, the local government to provide the housing development proponent with an itemized list and a good faith estimate of the total sum amount of all fees and exactions that will apply to the project within 30 business days.
- 10) Requires the development proponent to request the good faith estimate of the total sum amount of all fees and exactions imposed by the agency that will apply to the project, and the agency shall provide the information within 30 business days. This estimate shall be on the average amount of the fees imposed in similar projects. This estimate shall be for informational purposes only.

COMMENTS:

- 1) *Author’s statement.* “AB 1820 is a “good government” measure that seeks to provide developers financial certainty and predictability when estimating the cost of local development impact fees on proposed housing projects.”
- 2) *Impact fees.* Local governments can charge a variety of fees to a development. These fees, commonly known as impact fees or mitigation fees, go toward infrastructure development (such as adding lanes to roads or supporting additional traffic) or other public benefits (such as new parks, schools, or affordable housing). In the wake of the passage of Proposition 13 in 1978 and the resulting loss of significant property tax revenue, local governments have also turned to development fees as a means to generate revenue. Given that California cities have tightly restricted funding sources, fees are one of the few ways cities can pay for the indirect costs of growth. The Mitigation Fee Act requires local officials, when establishing, increasing, or imposing a fee as a condition of approving a development project, to make a number of determinations including to: identify the purpose of the fee; identify the use of the fee, including the public facilities that the fee will finance; determine a reasonable relationship between the use of the fee and the development; and determine a reasonable relationship between the public facility’s need and the development. Local agencies must also produce an annual report on developer and other fees.

3) *Do impact fees drive up housing construction costs?* Concerned that mitigation fees could be increasing the cost of housing, the Legislature passed AB 879 (Grayson, Chapter 374, Statutes of 2017), which required HCD to complete a study to evaluate the reasonableness of local fees charged to new developments. In August 2019, HCD released the study, performed by UC Berkeley's Turner Center for Housing Innovation (Turner Center).¹ Among other conclusions, the report argued that fees can be a barrier to development and can raise prices of both new and existing homes; however, it also noted that local governments face substantial fiscal constraints and thus have turned to fees as a source of revenue to fund public services for new developments. The report found that fee transparency could be substantially improved. According to the study, many jurisdictions do not post their fee schedules or their nexus studies online, making it difficult for developers to estimate project costs, while other jurisdictions have adopted best practices such as offering an estimate of the fees that a project would pay. The study recommended requiring local governments to post fees and nexus studies online, as well as annual reports on fee collections, and requiring jurisdictions to provide fee estimates. In response, the Legislature passed AB 1483 (Grayson, Chapter 662, Statutes of 2019), which required cities and counties to post specified housing-related information on their website and required HCD to establish a workgroup to develop a strategy for state housing data.

AB 1483 also requires a city, county, or special district that has an internet website to post on their websites the following information, as applicable:

- a) A current schedule of mitigation fees, exactions, and affordability requirements imposed by the city, county, or special district, including any dependent special districts of the city or county, applicable to a housing development project, in a manner that clearly identifies the fees that apply to each parcel.
- b) All zoning ordinances and development standards, including which standards apply to each parcel.
- c) A list that cities and counties must develop under existing law of projects located within military use airspace or low-level flight path.
- d) The current and five previous annual fee reports or the current and five previous annual financial reports that local agencies must compile pursuant to existing law.

¹ Hayley Raetz, David Garcia, and Nathaniel Decker. *Residential Impact Fees in California* (Turner Center for Housing Innovation, UC Berkely, August 2019). https://turnercenter.berkeley.edu/wp-content/uploads/pdfs/Residential_Impact_Fees_in_California_August_2019.pdf

- e) An archive of impact fee nexus studies, cost of service studies, or the equivalent, conducted by the city, county, or special district on or after January 1, 2018.

A city, county, or special district must update this information on their website within 30 days of any change. The measure also required cities and counties to request the total amount of fees and exactions associated with the project from a developer after construction, but the developer does not have to respond. The city or county must post this information on its internet website, and update it at least twice per year.

- 4) *Housing Crisis Act of 2019*. To address concerns that cities and counties were taking actions that could undermine housing development, the Legislature enacted SB 330 (Skinner, 2019), the Housing Crisis Act of 2019 (HCA). Among other provisions, the HCA prohibits a local agency from applying new rules or standards to a project after a “preliminary application” containing specified information is submitted.
- 5) *Creating additional fee transparency*. This bill requires local agencies to provide more information on fees and exactions at various stages of the housing development approval process. Specifically, it allows a developer that submits a preliminary application to include in its application a request for a preliminary fee and exaction estimate, which the local agency must provide within 30 business days of receiving the application. This estimate must be a good faith estimate of the total amount of fees and exactions imposed in connection with the project. The measure provides that the estimate is for informational purposes only, is not legally binding, and does not affect the scope, amount, or time of payment of any fee or exaction. For these purposes, fees do not include the cost of providing electrical or gas service from a local publicly owned utility, or a charge imposed on a project to comply with CEQA.

Upon final approval of a project, which the measure defines as the project receiving all necessary approvals to be eligible to apply for, and obtain, necessary building permits, the city or county must provide the developer an itemized list and good faith estimate of the total sum of all fees and exactions for the project within 30 business days. The developer can request this information from other agencies that are not a city or county, and the agency must provide the information within the same amount of time. If a public agency calculates fees using a cost recovery method to cover administrative costs, it must provide fee estimates for those cost recovery fees based on the average amount of fees imposed on similar projects.

Lastly, when a city or county requests the total amount of fees and exactions associated with the project from a development proponent, the request must clearly state the developer is under no obligation to respond and will not be subject to any consequences for not responding or for the content of a response. The measure includes a provision proclaiming this to be existing law.

- 6) *Opposition.* The City of Oceanside is opposed to this bill due to concerns about added costs on local governments, as well as the time constraints imposed.
- 7) *Incoming!* This bill was heard in the Local Government Committee on June 11, 2024 and passed on a 7-0 vote.

RELATED LEGISLATION:

AB 1483 (Grayson, Chapter 662, Statutes of 2019) — required local jurisdictions to disseminate publicly information about its zoning ordinances, development standards, fees, exactions, and affordability requirements, and requires HCD to develop and update a 10-year housing data strategy.

SB 330 (Skinner, Chapter 654, Statutes of 2019) — among other provisions, prohibited a local agency from applying new rules or standards to a project after a “preliminary application” containing specified information is submitted.

AB 879 (Grayson, Chapter 374, Statutes of 2017) — directed HCD to complete a study evaluating the reasonableness of local fees charged to new developments, as defined.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

POSITIONS: (Communicated to the committee before noon on Wednesday, June 26, 2024.)

SUPPORT:

- California Building Industry Association (Co-Sponsor)
- California YIMBY (Co-Sponsor)
- San Francisco Bay Area Planning and Urban Research Association (SPUR) (Co-Sponsor)
- Abundant Housing LA
- Bay Area Council
- California Apartment Association
- California Builders Alliance

California Chamber of Commerce
California Community Builders
California Hispanic Chambers of Commerce
Circulate San Diego
CivicWell
East Bay YIMBY
Eden Housing
El Dorado County Chamber of Commerce
El Dorado Hills Chamber of Commerce
Elk Grove Chamber of Commerce
Fieldstead and Company
Folsom Chamber of Commerce
Fremont for Everyone
Generation Housing
Grow the Richmond
Habitat for Humanity California
Housing Action Coalition
Housing California
Housing Leadership Council of San Mateo County
Housing Trust Silicon Valley
How to ADU
LeadingAge California
Lincoln Area Chamber of Commerce
Midpen Housing
Mountain View YIMBY
Napa-Solano for Everyone
Northern Neighbors
Peninsula for Everyone
People for Housing Orange County
Progress Noe Valley
Rancho Cordova Area Chamber of Commerce
Resources for Community Development
Rocklin Area Chamber of Commerce
Roseville Area Chamber of Commerce
Sacramento Regional Builders Exchange
San Francisco YIMBY
San Luis Obispo YIMBY
Santa Cruz YIMBY
Santa Rosa YIMBY
Shingle Springs/Cameron Park Chamber of Commerce
Silicon Valley Leadership Group
South Bay YIMBY

Southern California Association of Non-profit Housing (SCANPH)
Southside Forward
Streets for People
United Chamber Advocacy Network (UCAN)
Urban Environmentalists
Valley Industry and Commerce Association (VICA)
Ventura County YIMBY
YIMBY Action
Yuba Sutter Chamber of Commerce

OPPOSITION:

City of Oceanside

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