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California Land Use & Development Law Report

CBIA Heads Off Level III Fees

Level II school fees are intended to fund approximately 50% of the cost of school facilities. The other 50% is funded by the state through the Leroy-Greene School Facilities Act of 1998, commonly known as SB-50.

But what happens when the state runs out of money, as will soon happen? SB-50 provides that if state funds for new school facility construction are not available, any district that imposes Level II fees may double those fees to Level III, effectively shifting the state's share to the developer. State funds are "not available" if the State Allocation Board is no longer approving apportionments for new construction, which will occur imminently.

Concerned about the adverse economic impacts on the depressed housing market, the [California Building Industry Association](#) sought legislation that would delay the onset of Level III fees to allow for a statewide school bond issue to be placed on the ballot. Such legislation, amending SB-50, was attached to the budget trailer bill (SB 1016) recently signed by Governor Brown. Under the amended law, the authorization for Level III fees will be suspended until, at the earliest, September 2014 and possibly later if a statewide bond is placed on the ballot before that date.

The legislation caused a sigh of relief in the development community. Because Level II fees in some jurisdictions are close to \$10,000 per unit, at Level III, some developers would be looking at school fees in the range of \$20,000 per-unit. That result, in the words of the CBIA, "would have dealt a crippling blow to affordability and likely would have killed hundreds of developments throughout the state."

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