

Assembly Bill 602 - New Requirements on Impact Fees

The legislature recently adopted Assembly Bill 602, which imposes new requirements on public agencies concerning impact fees on development projects.

AB 602 will take effect in two stages. Beginning on January 1, 2022, public agencies will be required to post or link to a written fee schedule on the agency's website. The agency will also be required to request from a successful development proponent the total amount of fees and exactions associated with their project upon its completion and post that information to the agency's website. The agency must update the information provided by development proponents twice a year.

Further, the law will now permit any member of the public to submit evidence challenging an agency's compliance with the Mitigation Fee Act, and requires that the agency consider timely submitted comments.

New requirements concerning how public agencies must conduct impact fee nexus studies will also come into effect in January 2022. For example, where a public agency determines as part of a study that a new level of service will be needed for a given public facility, the study will need to identify the existing level of service for each public facility, identify the proposed new level of service, and include an explanation of why the new level of service is appropriate. "Large Jurisdictions" (including any county with a population of greater than 250,000, and any city within such a county) will need to adopt a capital improvement plan as part of any nexus study. New notice requirements will also take effect.

Beginning July 1, 2022, the law will encourage public agencies conducting a nexus study to calculate a fee imposed on housing development projects by determining the square footage of the proposed housing units and developing a fee proportional to the square footage of those units. If public agencies do not use this approach to calculating fees imposed on housing development projects they must do all of the following:

- 1) Make findings that explain why square footage is not an appropriate metric;

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- 2) Provide an alternative basis of calculating the fee that bears a reasonable relationship between the fee charged and the burden posed by the development; and
- 3) Ensure that smaller developments are not charged disproportionate fees.