



CLIENT NEWS BRIEF

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STATE ALLOCATION BOARD LEAVES LEVEL 1 DEVELOPER FEES UNCHANGED AND DECREASES SCHOOL FACILITY PROGRAM GRANT FOR 2010

Every other year at its January meeting, the State Allocation Board ("SAB") adopts an inflationary adjustment to the statutory school impact fee, commonly referred to as the "Level 1" developer fee. On January 27, 2010, the SAB elected to leave the current Level 1 fee unchanged. Accordingly, the residential Level 1 fee remains at \$2.97 per square foot, and the commercial Level 1 fee remains at \$0.47 per square foot. The SAB also voted to decrease funding for the School Facility Program ("SFP") grant by 6.74%. Construction funding that was approved by the SAB before January 1, 2010, will not be subject to this decrease.

Although the SAB elected to leave the Level 1 fees unchanged, school districts should consider reviewing their justification studies to ensure that they remain sufficiently current and accurate. In light of the statewide economic slowdown, assumptions in prior studies may have changed. To avoid or defeat potential challenges from developers that the Level 1 fees are no longer justified due to changed economic and development circumstances, districts should evaluate whether a new or updated justification study is warranted.

In contrast to Level 1 fees, Level 2 fees must be adopted annually through approval of a School Facility Needs Analysis ("SFNA"). Level 2 fees are also not automatically subject to an inflationary adjustment every other year. Level 2 fees are determined by application of a specific formula as set forth in Government Code section 65995.6. That formula considers the then applicable SFP grant amount as the basis for determining the anticipated cost of school construction. In light of the SAB's decision to decrease SFP grant amounts by 6.74%, when a future SFNA is adopted, one of the key assumed costs in the formula will have to be adjusted downward. Depending on how other factors play out, the result could be a lower Level 2 fee.

To assist schools in dealing with numerous developer fee issues, Lozano Smith's Facilities and Business Practice Group publishes its [Developer Fee Handbook for School Facilities: A User's Guide to Qualifying for, Imposing, Increasing, Collecting, Using and Accounting for School Impact Fees in California](#). The handbook is designed to help school districts

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reduce their legal costs by providing comprehensive information regarding California law and process for school impact fees. Toward this end, the handbook contains procedures, time lines, checklists and forms to be used when adopting fees and/or fee increases. Our 2010 updates to the handbook will be forthcoming shortly.

For more information on the Developer Fee Handbook, or to order a copy, please visit our [website](#), contact our Client Services department at: clientservices@lozanosmith.com, or call (800) 445-9430.

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