

CLIENT NEWS BRIEF

State Allocation Board Adopts Increase to Level One Developer Fees That Can Be Imposed by School Districts

On February 24, 2016, the State Allocation Board (SAB) adjusted the amount of "Level 1" developer fees that school districts are authorized to collect to \$3.48 per square foot of residential development and \$0.56 for commercial development. The SAB's action represents a 3.59 percent increase over the maximum amounts authorized as of January of 2015. The increase takes effect immediately, and may now be implemented by school districts through local action. The latest increase came after the SAB initially took action on January 27, 2016, to authorize a smaller increase of only 1.05 percent over the previously authorized amounts. Following that initial action, the SAB was made aware of a discrepancy in the data used to support the increase, and took further action on February 24 to resolve the discrepancy.

Government Code section 65995 authorizes the SAB to increase the amount of Level 1 developer fees that school districts are authorized to collect. Such an increase may be adopted in every even year. The SAB based increases prior to 2016 on the Marshall & Swift Eight California Cities Index for construction costs. In April of 2015, the SAB adopted the Class B construction cost index according to the RS Means Index. At its January meeting, the SAB based its 1.05 percent increase on the RS Means Index. After that increase was approved, RS Means provided corrected source data to the Office of Public School Construction (OPSC). OPSC staff reviewed the new data and recommended that the SAB amend the 2016 Level 1 assessment for development fees to reflect the corrected amounts. On February 24, 2016, the SAB approved that recommendation.

The SAB increase does not affect "Level 2" developer fees, which must be adopted annually based on a school district's own School Facilities Needs Analysis. The change also does not affect "Level 3" fees, which school districts may not collect unless and until the SAB certifies that state funds for new school facility construction are no longer available. Since Level 3 fees were created by the Legislature nearly two decades ago, the SAB has never been willing to make that certification.

Based on this and other legal developments, Lozano Smith is preparing the 2016 update for Lozano Smith's publication, [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 can help school districts 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 and implementing fees and/or increases.

At this time, Lozano Smith is continuing to make the handbook available to school district clients at no cost. School districts that previously ordered the handbook will be sent the 2016 updates at no charge. School districts that have not previously ordered the handbook can do so [here](#).

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For more information on the Developer Fee Handbook, or to order a copy, please contact our Client Services department at: clientservices@lozanosmith.com, or call (800) 445-9430. If you have any questions regarding the adoption or implementation of fee increases or any other developer fee issue, please contact one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).

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