



ASSEMBLYMEMBER TIM GRAYSON

AB 602

NEW ACCOUNTABILITY FOR THE MITIGATION FEE ACT

Summary:

AB 602 establishes standards for the nexus studies that local governments use to calculate the fees that they impose on new housing development. It also tasks the Department of Housing and Community Development (HCD) with developing a template for nexus studies that local governments can use, and provides technical and clarifying changes to AB 1483 (Grayson, 2019).

Background:

California has a massive and growing housing production and affordability gap: six out of the nation's eleven most expensive large metropolitan rental markets are located here. Of California's roughly 6 million renter households, nearly 30 percent — more than 1.7 million households — pay more than 50 percent of their income toward rent. According to the California Housing Partnership, more than 1.4 million California households are in need of affordable housing.

Local jurisdictions levy development fees to pay for the services needed to support new housing and to offset the impacts of growth in a community. These fees can make up a substantial portion of the cost to build new housing in California cities. In order for impact fees to be legally valid, they must comply with the rules and regulations established by the Mitigation Fee Act and be justified through the use of a "nexus study." A nexus study illustrates the relationship between new development and its incremental impacts on infrastructure.

Problem:

In November of 2020, UC Berkeley's Turner Center for Housing Innovation released a report entitled *Improving Impact Fees in California: Rethinking the Nexus Studies Requirements*.¹ This report stressed the need for additional guidance as to how local jurisdictions conduct nexus studies.

At the moment, nexus studies are governed by an opaque and informal patchwork of guidelines and common practices, without statutory requirements. The report made several recommendations to address these deficiencies:

- **Clarify requirements around level of service.**
 - Currently, nexus studies do not always explicitly state the existing level of service that jurisdictions provide, or they set fees based on a higher level of service that the jurisdiction is seeking to attain.
- **Tie fees more closely to direct impacts of new development.**
 - Some methods of establishing fees make it difficult to ensure fees are only being used to maintain service levels in jurisdictions impacted by new development.
- **Incorporate consideration of feasibility and create mechanisms for triggering review.**
 - New mechanisms should be established to trigger state review and/or more stringent feasibility analysis for potentially unreasonable or exclusionary fee programs.

Solution:

AB 602 will establish important new accountability standards for the nexus studies that local governments use to calculate the fees that they impose on new housing development. These include requirements that local jurisdictions state their existing level of service, provide a capital facilities plan for proposed expenditures, and comply with public notice and meeting requirements.

AB 602 will tie fees more closely to the actual impacts of new development by requiring that fees be proportionate to the square footage of a proposed unit or units. An additional benefit of this policy is that developers will be given an incentive to subdivide projects into smaller, more naturally affordable units.

The bill also tasks HCD with developing a template for nexus studies that local governments can use, which will include an analysis of the feasibility of constructing new housing with a given fee level.

¹ Turner Center for Housing Innovation. "Improving Impact Fees in California: Rethinking the Nexus Studies Requirements." 2020
<https://turnercenter.berkeley.edu/research-and-policy/improving-impact-fees-nexus-studies-requirement/>

Finally, AB 602 provides technical and clarifying changes to AB 1483 (Grayson, 2019), which required local governments to post their fee schedules on their websites.

Support

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