

March 2024

AB 516 EXPANDS DEVELOPER FEE ACCOUNTING AND CERTIFICATE OF COMPLIANCE REQUIRED INFORMATION AND ADDS GROUNDS FOR DEVELOPMENT APPLICANTS TO REQUEST AN AUDIT OF FUND 25

Background

Effective January 1, 2024, AB 516 (Ramos) amended the Mitigation Fee Act (“Act”) by expanding the information required to be included in a school district’s annual and five-year developer fee accounting reports, as well as the information required to be contained in a Certificate of Compliance that is issued notifying the applicant of the school fees due. In addition, development applicants are granted new grounds upon which to request an audit of funds collected and expenditures made from Fund 25.

In particular, AB 516 newly requires the accounting reports to contain information on:

- Whether the projects identified in the previous annual and five-year accountings, for which fees have been collected, began on the approximate date noted in those reports after sufficient funds were collected to finance the project(s), and the projects that remain incomplete.
- The reason(s) for any delay in beginning construction on the previously identified projects and a revised approximate date that construction will begin or be completed.
- The number of persons or entities that received refunds of fees collected in the prior period.

AB 516 also requires that development applicants be informed that they have a right to:

- Request an audit of Fund 25 under Government Code section 66023 (after depositing the reasonable cost of the audit) to determine:
 - Whether any fee or charge levied by a local agency exceeds the amount reasonably necessary to cover the cost of any product, public facility as defined in section 66000, or service provided by the local agency.

- When the revenue generated by a fee or charge is scheduled to be expended.
- When the public improvement is scheduled to be completed.
- File a written request to receive advance notice of the school board's meeting when the accounting reports will be reviewed.
- Review the reports on a district website link.

Required Actions

For those districts that belong to the Kern County Superintendent of Schools District Facility Services JPA ("JPA"), the Certificates of Compliance issued by the JPA on your behalf will be updated to contain the required information. Similarly, Schools Legal Service will update the annual and five-year accounting templates and issue those to all client districts in October of each year for your respective board's action on or about December 28, pursuant to long-standing practice.

Districts that do not belong to the JPA and collect their own developer fees should revise their Certificates of Compliance to incorporate the newly required information.

All districts should immediately add a link on their website for the public to review the most recent and all subsequent annual and five-year accountings.

If you have questions concerning this update or related developer fee issues, do not hesitate to contact Schools Legal Service at sls@kern.org or the JPA's Andrea Watson at anwatson@kern.org.

~ Christopher P. Burger, Consultant

School Business Law Updates are intended to alert clients to developments in legislation, opinions of courts and administrative bodies and related matters. They are not intended as legal advice in any specific situation. Please consult legal counsel as to how the issue presented may affect your particular circumstances.