An act to amend Section 66477 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL’S DIGEST

AB 1359, as introduced, Roger Hernández. Quimby Act: use of fees. The Quimby Act, which is within the Subdivision Map Act, authorizes the legislative body of a city or county to require the dedication of land or impose fees for park or recreational purposes as a condition to the approval of a tentative or parcel subdivision map if specified requirements are met. One of these requirements is that the dedicated land or fees, or combination thereof, shall be used only for the purposes of developing new, or rehabilitating existing, neighborhood or community park or recreational facilities to serve the subdivision. The act provides that the dedication of land, or the payment of fees, or both, shall not exceed the proportionate amount necessary to provide 3 acres of park area per 1,000 persons residing within a subdivision subject to the act, except as specified.

This bill would authorize fees paid pursuant to the act to also be used for the purpose of developing new or rehabilitating existing neighborhood or community park or recreational facilities to serve the subdivision or subdivisions in the city or county with the greatest need, as defined. The bill would require the legislative body to hold a public hearing before using fees as prescribed in the bill. This bill also would authorize the use of joint or shared use agreements to facilitate access to park or recreational facilities for residents in specified areas.
The people of the State of California do enact as follows:

SECTION 1. Section 66477 of the Government Code, as amended by Section 61 of Chapter 181 of the Statutes of 2012, is amended to read:

66477. (a) The legislative body of a city or county may, by ordinance, require the dedication of land or impose a requirement of the payment of fees in lieu thereof, or a combination of both, for park or recreational purposes as a condition to the approval of a tentative map or parcel map, if all of the following requirements are met:

(1) The ordinance has been in effect for a period of 30 days prior to the filing of the tentative map of the subdivision or parcel map.

(2) The ordinance includes definite standards for determining the proportion of a subdivision to be dedicated and the amount of any fee to be paid in lieu thereof. The amount of land dedicated or fees paid shall be based upon the residential density, which shall be determined on the basis of the approved or conditionally approved tentative map or parcel map and the average number of persons per household. There shall be a rebuttable presumption that the average number of persons per household by units in a structure is the same as that disclosed by the most recent available federal census or a census taken pursuant to Chapter 17 (commencing with Section 40200) of Part 2 of Division 3 of Title 4. However, the dedication of land, or the payment of fees, or both, shall not exceed the proportionate amount necessary to provide three acres of park area per 1,000 persons residing within a subdivision subject to this section, unless the amount of existing neighborhood and community park area, as calculated pursuant to this subdivision, exceeds that limit, in which case the legislative body may adopt the calculated amount as a higher standard not to exceed five acres per 1,000 persons residing within a subdivision subject to this section.

(A) The park area per 1,000 members of the population of the city, county, or local public agency shall be derived from the ratio that the amount of neighborhood and community park acreage
bears to the total population of the city, county, or local public
agency as shown in the most recent available federal census. The
amount of neighborhood and community park acreage shall be the
actual acreage of existing neighborhood and community parks of
the city, county, or local public agency as shown on its records,
plans, recreational element, maps, or reports as of the date of the
most recent available federal census.

(B) For cities incorporated after the date of the most recent
available federal census, the park area per 1,000 members of the
population of the city shall be derived from the ratio that the
amount of neighborhood and community park acreage shown on
the records, maps, or reports of the county in which the newly
incorporated city is located bears to the total population of the new
city as determined pursuant to Section 11005 of the Revenue and
Taxation Code. In making any subsequent calculations pursuant
to this section, the county in which the newly incorporated city is
located shall not include the figures pertaining to the new city
which were calculated pursuant to this paragraph. Fees shall be
payable at the time of the recording of the final map or parcel map
or at a later time as may be prescribed by local ordinance.

(3) (A) The land, fees, or combination thereof are to be used
only for the purpose of developing new or rehabilitating existing
neighborhood or community park or recreational facilities to serve
the subdivision, except as provided in subparagraph (B).

(B) (i) Notwithstanding subparagraph (A), fees may be used
for the purpose of developing new or rehabilitating existing
neighborhood or community park or recreational facilities to serve
the subdivision or subdivisions in the city or county with the
greatest need. The legislative body shall hold a public hearing
before using fees as provided in this subparagraph.

(ii) For purposes of this paragraph, “subdivision or subdivisions
of the city or county with greatest need” includes a subdivision
with fewer than three acres of park area per 1,000 members of a
city, county, or local public agency.

(4) The legislative body has adopted a general plan or specific
plan containing policies and standards for parks and recreation
facilities, and the park and recreational facilities are in accordance
with definite principles and standards.

(5) The amount and location of land to be dedicated or the fees
to be paid shall bear a reasonable relationship to the use of the
park and recreational facilities by the future inhabitants of the subdivision.

(6) (A) The city, county, or other local public agency to which the land or fees are conveyed or paid shall develop a schedule specifying how, when, and where it will use the land or fees, or both, to develop park or recreational facilities to serve the residents of the subdivision. Any fees collected under the ordinance shall be committed within five years after the payment of the fees or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If the fees are not committed, they, without any deductions, shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision.

(B) The city, county, or other local agency to which the land or fees are conveyed or paid may enter into a joint or shared use agreement with one or more other public districts in the jurisdiction, including, but not limited to, a school district or community college district, in order to provide access to park or recreational facilities to residents of subdivisions with fewer than three acres of park area per 1,000 members of the population.

(7) Only the payment of fees may be required in subdivisions containing 50 parcels or less, except that when a condominium project, stock cooperative, or community apartment project, as those terms are defined in Sections 4105, 4125, and 4190 of the Civil Code, exceeds 50 dwelling units, dedication of land may be required notwithstanding that the number of parcels may be less than 50.

(8) Subdivisions containing less than five parcels and not used for residential purposes shall be exempted from the requirements of this section. However, in that event, a condition may be placed on the approval of a parcel map that if a building permit is requested for construction of a residential structure or structures on one or more of the parcels within four years, the fee may be required to be paid by the owner of each parcel as a condition of the issuance of the permit.

(9) If the subdivider provides park and recreational improvements to the dedicated land, the value of the improvements together with any equipment located thereon shall be a credit
against the payment of fees or dedication of land required by the 
ordinance.
(b) Land or fees required under this section shall be conveyed 
or paid directly to the local public agency which provides park 
and recreational services on a communitywide level and to the 
area within which the proposed development will be located, if 
that agency elects to accept the land or fee. The local agency 
accepting the land or funds shall develop the land or use the funds 
in the manner provided in this section.
(c) If park and recreational services and facilities are provided 
by a public agency other than a city or county, the amount and 
location of land to be dedicated or fees to be paid shall, subject to 
paragraph (2) of subdivision (a), be jointly determined by the city 
or county having jurisdiction and that other public agency.
(d) This section does not apply to commercial or industrial 
subdivisions or to condominium projects or stock cooperatives 
that consist of the subdivision of airspace in an existing apartment 
building that is more than five years old when no new dwelling 
units are added.
(e) Common interest developments, as defined in Section 1351 
of the Civil Code, shall be eligible to receive a credit, as determined 
by the legislative body, against the amount of land required to be 
dedicated, or the amount of the fee imposed, pursuant to this 
section, for the value of private open space within the development 
which is usable for active recreational uses.
(f) Park and recreation purposes shall include land and facilities 
for the activity of “recreational community gardening,” which 
activity consists of the cultivation by persons other than, or in 
addition to, the owner of the land, of plant material not for sale.
(g) This section shall be known, and may be cited, as the 
Quimby Act.