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**Introduced by Senator McPherson**

February 19, 2004

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An act to amend Section 54999.3 of the Government Code, relating to capital facilities fees.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1491, as introduced, McPherson. Capital facilities fees: increase.

Existing law generally sets forth certain conditions on the imposition of a capital facilities fee on any school district, county office of education, community college district, or state agency, or the California State University, the University of California, by a public agency providing public utility service.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 54999.3 of the Government Code is  
2 amended to read:  
3 54999.3. ~~However, the~~ *The* imposition of a capital facilities  
4 fee on any school district, county office of education, *or*  
5 community college district, the California State University, the  
6 University of California, or *any* state agency shall be subject to the  
7 following:  
8 (a) Where necessary to defray the actual construction costs of  
9 that portion of a public utility facility actually serving a public



1 agency, any public agency providing public utility service on or  
2 after July 21, 1986, may continue to charge any capital facilities  
3 fee ~~which~~ *that* was imposed prior to that date on the public agency  
4 using the public utility service and was not protested or challenged  
5 pursuant to law prior to January 1, 1987, or increase that capital  
6 facility fee in an amount not to exceed the percentage increase in  
7 the Implicit Price Deflator for State and Local Government  
8 Purchases, as determined by the Department of Finance and any  
9 public agency shall pay any capital facilities fees authorized by this  
10 subdivision.

11 (b) On and after July 21, 1986, any public agency proposing to  
12 initially impose a capital facilities fee or to increase an existing  
13 capital facilities fee in excess of the amount set forth in subdivision  
14 (a), may do so after agreement has been reached between the two  
15 agencies through negotiations entered into by both parties.

16 (c) Upon request of the affected public agency or upon increase  
17 pursuant to subdivision (a), the public agency imposing or  
18 increasing the fee shall identify the amount of the capital facilities  
19 fee. The public agency imposing or increasing the capital facilities  
20 fee has the burden of producing evidence to establish that the  
21 capital facilities fee is nondiscriminatory and that the amount of  
22 the capital facilities fee does not exceed the amount necessary to  
23 provide capital facilities for which the fee is charged.

