

AMENDED IN SENATE APRIL 13, 2004

SENATE BILL

No. 1491

Introduced by Senator McPherson

February 19, 2004

An act to amend Section 54999.3 of, *and to add Section 54999.7 to*, the Government Code, relating to capital facilities fees.

LEGISLATIVE COUNSEL'S DIGEST

SB 1491, as amended, 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. *The bill would prohibit a public agency providing public utility service from imposing capital facilities fees that result in subsidizing of any other class of customers by public agency customers.*

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. The imposition of a capital facilities fee on any
- 4 school district, county office of education, or community college
- 5 district, the California State University, the University of
- 6 California, or any state agency shall be subject to the following:

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

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

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

26 *SEC. 2. Section 54999.7 is added to the Government Code, to*
27 *read:*

28 *54999.7. Notwithstanding any other provision of law, a public*
29 *agency providing public utility service shall not be permitted to*
30 *impose capital facilities fees that result in subsidizing of any other*
31 *class of customers by public agency customers.*

