

Date of Hearing: June 26, 2024

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

SB 1210 (Skinner) – As Amended June 24, 2024

SENATE VOTE: 33-5

SUBJECT: New housing construction: electrical, gas, sewer, and water service: service connection information.

SUMMARY: Requires electrical, gas, sewer, and water service utilities – both public and private – to post fee schedules and estimated timeframes for new service connections and capacity upgrades needed to connect new housing construction projects. Exempts certain utilities from the requirements of the bill due to a showing of hardship. Specifically, **this bill:**

- 1) Defines, for the purposes of the bill, “utility” to mean any of the following that furnish electrical, gas, water, or sewer service, or any combination thereof, where the service is performed for, or the commodity is delivered to, the public or any portion thereof:
 - a) An electrical corporation, as defined.
 - b) A gas corporation, as defined.
 - c) A sewer system corporation, as defined.
 - d) A water corporation, as defined.
 - e) A municipality or municipal corporation operating as a public utility, as defined.
 - f) A municipal utility district, as specified.
 - g) A public utility district, as specified.
 - h) An irrigation district, as specified.
 - i) A joint powers authority that includes one or more of the entities described in e) through h) above, that owns electrical, gas, water, or sewer facilities, or furnishes electrical, gas, water, or sewer service over its own or its member’s system.
- 2) Requires, on or before January 1, 2026, utilities to post both of following on their website for new housing developments:
 - a) A schedule of estimated fees for typical service connections for each housing development type, including, but not limited to, accessory dwelling unit, multifamily, mixed-use, and single-family developments. However, this requirement does not apply to a utility, as defined above, which continues to post their fee schedule with this information when complying with existing law, as specified.

- b) The estimated timeframes for completing typical service connections needed for each housing development type, including, but not limited to, accessory dwelling unit, mixed-use, multifamily, and single-family developments.
- 3) Provides that this bill does not apply to a utility with fewer than 4,000 service connections that does not establish or maintain an internet website due to a hardship.
- 4) Allows a utility with fewer than 4,000 service connections to establish that a hardship exists by annually adopting a resolution that includes detailed findings based on evidence that is publicly noticed before the meeting and included in the meeting agenda that supports the determination that a hardship prevents the utility from establishing or maintaining an internet website. The findings may include, but shall not be limited to, inadequate access to broadband communications network facilities that enable high-speed internet access, significantly limited financial resources, or insufficient staff resources.
- 5) Provides that no reimbursement is required by this bill because a local agency or school district has the authority to levy service charges, fees, assessments sufficient to pay for the program or level of service mandated by the bill.

EXISTING LAW:

- 1) Establishes and vests the California Public Utilities Commission (CPUC), with jurisdiction over all public utilities. (Article XII of the California Constitution)
- 2) Defines “public utilities” to be private corporations and persons that own, operate, control or manage a line, plant, or system for the transmission, or furnishing of heat, light, water, power, or storage, directly or indirectly to or for the public, and common carriers, subject to the control of the Legislature. (Article XII, Section 3, of the California Constitution)
- 3) Includes every common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, and heat corporation, where the service is performed for, or the commodity is delivered to, the public or any portion thereof. [Public Utilities Code (PUC) § 216]
- 4) Defines an “electrical corporation” to include every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property solely for its own use or the use of its tenants and not for sale or transmission to others. (PUC § 218)
- 5) Defines a “gas corporation” to include every corporation or person owning, controlling, operating, or managing any gas plant for compensation within this state, except where gas is made or produced on and distributed by the maker or producer through private property alone solely for his own use or the use of his tenants and not for sale to others. (PUC § 222)
- 6) Defines “sewer system corporation” to include every corporation or person owning, controlling, operating, or managing any sewer system for compensation within the state. (PUC § 230.6)

- 7) Defines “municipal utility district” as a district formed under the Municipal Utility District Act. (PUC § 11503)
- 8) Defines a public utility district as a district formed under the Public Utilities District Act. (PUC § 15501 et seq.)
- 9) Defines “special district” as any agency of the state established for the local performance of governmental or proprietary functions within limited boundaries. Provides that “special district” includes a county service area, a maintenance district or zone, an air pollution control district, or a redevelopment agency. States that “special district” does not include a city, county, city and county, or school district. [Government Code (GOV) § 82048.5]
- 10) Requires a local agency when increasing, or imposing a fee as a condition of approval of a development project, on or after January 1, 1989, to take specified actions, including identifying the purpose of the fee. (GOV § 66000 *et seq.*)
- 11) Requires independent special district to maintain an internet website, unless a majority of the governing board adopts a resolution determining a hardship exists in their ability to establish or maintain a website (such as lack of broadband service). (GOV § 53087.8)
- 12) Requires cities, counties, and special districts to post fee schedules, exactions, and affordability requirements on their internet websites, as specified. (GOV § 65940.1)
- 13) Requires local agencies to evaluate the amount of the fee or capacity charge prior to levying a new fee or charge, and requires supporting evidence used in the evaluation be made publicly available, as specified. (GOV § 66016.6)
- 14) Establishes guidelines for the design, cost allocation, and responsibilities of a project applicant and a utility for electric distribution line extensions necessary to furnish permanent electric service. (Electric Tariff Rule 15)
- 15) Establishes guidelines for the design, cost allocation, and responsibilities of a project applicant and a utility for the extension of electric service from an investor-owned utility (IOU) distribution line. (Electric Tariff Rule 16)
- 16) Establishes guidelines for design, cost allocation, and responsibilities of a project applicant for water service from an investor-owned water utility. (Water Service Tariff Rule 15)

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

- 1) **Bill Summary.** This bill requires, on or before January 1, 2026, utilities, both public and private, to post on their websites their estimated fee schedule for typical service connections to different types of housing developments, except for those publicly owned utilities that comply with similar requirements in existing law. The bill also requires utilities to post their

estimated amount of time to complete a typical service connection to the specified housing developments. The bill does not apply to utilities with less than 4,000 service connections, if that utility does not maintain a website due to a hardship. The utility must establish that a hardship exists by annually adopting a resolution.

This bill is sponsored by the Housing Action Coalition.

- 2) **Author’s Statement.** According to the author, “California is in desperate need of more housing, and particularly more affordable housing. Hook-up fees for electric, gas, sewer, or water service can add tens of thousands of dollars to the cost of each new housing unit. The final cost often comes as a surprising shock, as the fees charged by various utilities are rarely disclosed in a publicly available form and are difficult for the builder of the housing unit, whether a home owner or developer, to determine in advance. Timelines for the utility’s completion of the work can also vary widely, with some housing projects having to wait a year or more for service completion.

“High fees and a lack of transparency are an ongoing obstacle to housing creation at a time when California is focused on streamlining and other measures to build more housing units. SB 1210 will require utilities to provide clear cost information for their hook-up fees to customers, and require them to inform customers of the estimated service completion date. By increasing transparency and accountability in utility hook-ups, California will incentivize the production of new homes, and increase the affordability of housing state-wide.”

- 3) **The Utility Universe.** Californians receive their utility service through a variety of public or private utility providers, some with elected governing bodies, some with appointed regulators, and some with a hybrid structure. These utilities also range in size and service territory, from very small rural water companies serving less than a few hundred people over a small area to very large electric utilities serving millions of people over tens of thousands of square miles. Customer service and communication across these disparate utilities can vary. Likewise, the rules governing how utilities not only communicate with, but respond to, customers can vary either due to statute, regulation, or self-imposed decisions.
 - a) **Electric and gas utilities.** California residents are served by over 80 electric and gas utilities, including publicly owned utilities (POUs), investor-owned utilities (IOUs), rural cooperatives, and community choice aggregators. Some utilities are hybrid, offering both gas and electric service; while others are exclusive to one type of energy. For the most part, these utilities are not subject to competition, except at retail; meaning they have exclusive rights or agreements to operate within a given territory.
 - b) **Water utilities.** California residents are served by an estimated 2,800 water providers of various types of water utilities or water systems, including POUs, IOUs, and small community water systems. Nearly half of these systems (roughly 1,100 water providers) provide water to fewer than 200 customer service connections. The majority of California’s residential water customers are served by cities, special districts, and mutual water companies. Water companies, which are separate entities and subject to CPUC regulatory oversight, provide water service to about 16% of California’s residents. The majority of the CPUC-regulated water utilities (92) have 2,000 or less customer service connections, and 87 of those have service connections of 500 or less. As with other IOUs, the CPUC regulates rates of the water utilities under its jurisdiction to ensure costs are

just and reasonable. As with electric utilities, water utilities have similar service connection and capacity upgrade tariffs, in this case Water Service Tariff Rule 15.

- c) **Publicly owned utilities.** POUs are subject to differing constraints on their ability to collect rates for rate relief from one customer to another. These utilities are not subject to economic regulation by the CPUC, but are instead governed by the city council, or other local governing body, which set their own rates. Both Proposition 218 and Proposition 26 limit the ability of the local agencies to collect costs from a customer to fund activity by another customer, with specified limitations. These Propositions require a cost-of-service only model for POU services, and require that the service for which a fee or charge is imposed must be immediately available to the property owner, rather than for future or potential use. As a result, these entities have limitations, not imposed on the CPUC-regulated utilities that may hinder their ability to increase rates to fund programs or provide rate relief to customers.
- 4) **Mitigation Fee Act.** When approving development projects, counties and cities can require the applicants to mitigate the project's effects by paying fees—known as mitigation fees, impact fees, or developer fees. The California courts have upheld impact fees for sidewalks, parks, school construction, and many other public purposes.

When establishing, increasing, or imposing a fee as a condition of approving a development project, the Mitigation Fee Act requires local officials to:

- a) Identify the fee's purpose;
- b) Identify the fee's use, including the public facilities to be financed;
- c) Determine a reasonable relationship between the fee's use and the development; and
- d) Determine a reasonable relationship between the public facility's need and the development.

When imposing a fee as a condition of approving a development project, the Mitigation Fee Act also requires local officials to determine a reasonable relationship between the fee's amount and the cost of the public facility. In its 1987 *Nollan* decision, the U.S. Supreme Court said there must be an "essential nexus" between a project's impacts and the conditions for approval. In the 1994 *Dolan* decision, the U.S. Supreme Court said that conditions on development must have a "rough proportionality" to a project's impacts.

In the 1996 *Ehrlich* decision, the California Supreme Court distinguished between "legislatively enacted" conditions that apply to all projects and "ad hoc" conditions imposed on a project-by-project basis. *Ehrlich* applied the "essential nexus" test from *Nollan* and the "rough proportionality" test from *Dolan* to "ad hoc" conditions. The Court did not apply the *Nollan* and *Dolan* tests to the conditions that were "legislatively enacted." In other words, local officials face greater scrutiny when they impose conditions on a project-by-project basis.

As a result of these decisions and the Mitigation Fee Act, local agencies must conduct a nexus study to ensure any proposed impact fees meet these legal tests for most impact fees. Other requirements in the Mitigation Fee Act ensure that impact fees are appropriately levied and spent, including that a local agency must:

- a) Hold at least one open and public meeting prior to levying a new fee or increasing an existing one;
- b) If they decide to adopt capital improvement plans, indicate the approximate location, size, time of availability, and estimates of cost for all facilities or improvements to be financed with the fees;
- c) Deposit and spend the fees within five years of collecting them; and
- d) Refund fees or make specific findings on when and how the fees will be spent for construction, if the fees are not spent within five years of collection.

If a local agency levies an impact fee to fund a capital improvement associated with a development, it must deposit the fees with any other fees for that improvement in a separate account or fund.

Local officials must also produce an annual report within 180 days of the end of the fiscal year that includes information on the fee amounts, how they used the revenue, and any unspent funds.

- 5) **Connection and Capacity Charges.** For publicly owned utilities, connection fees and capacity charges are one-time fees assessed on new customers that reflect the reasonable cost of providing service, typically for water or sewer systems. A local agency assesses a connection fee when it physically connects a structure to the water or sewer system, which pays for the physical facilities necessary to make a water connection or sewer connection, such as meters, meter boxes, pipelines, and the estimated reasonable cost of labor and materials for their installation of those facilities. A local agency assesses a capacity charge on the customer to cover the proportional cost of maintaining or constructing system wide infrastructure necessary to meet the additional water or sewer demand for new users of the system. The Mitigation Fee Act governs connection fees and capacity charges, but state law provides separate provisions related to their oversight and accounting.
- 6) **AB 1483 of 2019.** In response to a 2019 Turner Center for Housing Innovation report that studied fee transparency, among other issues, AB 1483 (Grayson), Chapter 662, Statutes of 2019, required cities, counties, and special districts to post specified housing related information on their websites. This information included the following:
 - a) A current schedule of fees, exactions, and affordability requirements imposed by the city, county, or special district, including any dependent special districts, of the city or county applicable to a proposed housing development project, which must be presented in a manner that clearly identifies the fees, exactions, and affordability requirements that apply to each parcel.
 - b) All zoning ordinances and development standards, which must specify the zoning, design, and development standards that apply to each parcel.
 - c) A list that cities and counties must develop under existing law of projects located within military use airspace or a low-level flight path.
 - d) Specified annual fee reports or specified annual financial reports.

- e) An archive of impact fee nexus studies, cost of service studies, or equivalent, conducted by the city, county, or special district on or after January 1, 2018.

Since the passage of AB 1483, the information required to be posted on a local agency's website has changed. AB 1473 (Senate Committee on Governance and Finance), Chapter 371, Statutes of 2020, required local agencies to separately post their connection fees and capacity charges, without being tied to specific parcels, and made technical fixes to ensure that special districts were properly accounted for by AB 1483. Additionally, AB 602 (Grayson), Chapter 347, Statutes of 2021, required local agencies, among other things, to do the following:

- a) Post a written fee schedule or a link directly to the written fee schedule on its internet website.
 - b) Request from a development proponent, upon issuance of a certificate of occupancy or the final inspection, whichever occurs last, the total amount of fees and exactions associated with the project for which the certificate was issued. The city or county must post this information on its website, and update it at least twice per year. A city or county is not responsible for the accuracy of the information received by the development proponent.
- 7) **Related Legislation.** AB 1420 (Schiavo) requires local agencies to provide developers with more information on fees and exactions at various stages of the housing development approval process. AB 1420 is pending in the Senate Housing Committee.

AB 2729 (Joe Patterson) limits local agencies ability to collect impact fees prior to final inspection or certificate of occupancy, and makes other changes to the impact fee collection process. AB 2729 is pending in the Senate Local Government Committee.

AB 3016 (Grayson) requires cities and counties to make available on their internet websites a fee estimate tool that the public can use to calculate an estimate of fees and exactions for a proposed housing development, and requires HCD to develop a fee schedule template and a list of best practices, as specified. AB 3016 is pending in the Senate Housing Committee.

SB 937 (Wiener) makes various changes to the process for local agencies for local agencies to collect development impact fees, and extends development entitlements. SB 937 is pending in the Assembly Housing and Community Development Committee.

- 8) **Previous Legislation.** AB 50 (Wood), Chapter 317, Statutes of 2023, required the CPUC, by July 1, 2025, to determine the criteria for customers to receive timely electricity service when requesting new service connections or upgraded service, known as "energization."

AB 2536 (Grayson), Chapter 128, Statutes of 2022, required local agencies to evaluate and show specified evidence when imposing or increasing connection fees and capacity charges, and excludes school districts from certain nexus study requirements.

AB 602 (Grayson), Chapter 347, Statutes of 2021, required, among its provisions, a city, county, or special district that has an internet website to post and update on their websites specified information, including a current schedule of housing development project costs,

zoning ordinances and development standards, annual impact fee reports, and an archive of specified impact fee nexus studies.

AB 1026 (Wood), Chapter 446, Statutes of 2019, required an electrical or gas corporation to apply only those construction and design specifications, standards, terms, and conditions that are applicable to a new extension of service project for the 18 months following the date the application for a new extension of service project is approved. Authorized an electrical or gas corporation to adopt modifications, as specified, of the construction and design specifications, standards, terms, and conditions of a new extension of service project.

AB 1600 (Cortese) Chapter 927, Statutes of 1987, required a local agency when increasing, or imposing a fee as a condition of approval of a development project, on or after January 1, 1989, to take specified actions, including identifying the purpose of the fee.

SB 410 (Becker), Chapter 394, Statutes of 2023, required the CPUC to establish by September 30, 2024, reasonable average and maximum target energization time periods in order to connect new customers and upgrade the service of existing customers to the electrical grid. The bill also required reporting by electrical corporations and authorizes specified annual cost-recovery, subject to a cap.

- 9) **Arguments in Support.** Housing Action Coalition, sponsor of the bill, writes in support, “Currently, utility hook-up fees levied on new housing can add tens of thousands of dollars to the cost of each housing unit. This significant increase comes alongside the other varying costs developers are responsible for, making penciling a much-needed project all the more difficult. With SB 1210, electrical, gas, sewer, and water service utilities are required to post fee schedules and estimated timeframes for new service connections and capacity upgrades needed to connect new housing construction projects. Given the current housing crisis in California, we need to alleviate barriers to affordable housing development where we can, and SB 1210 is a great step in that direction.”
- 10) **Arguments in Opposition.** The Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company write in opposition, “SB 1210 would require all utilities, including electric and gas corporations, to publish a schedule of fees for a service connection, capacity, or other point of connection charge for each development type of new housing projects, without providing an exhaustive list or definition of ‘new housing construction.’ The bill would additionally require posting of estimated timeframes for completing typical service connections for each housing development type, again undefined. While we understand the intent behind this bill is to create transparency, reporting this information will likely be misleading or confusing to the end-user and come with a significantly increased compliance cost to utility customer.”
- 11) **Double-Referral.** This bill was double-referred to the Assembly Utilities and Energy Committee, where it passed on a 13-1 vote on June 19, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

Housing Action Coalition (Sponsor)
Ava Community Energy Authority
California YIMBY
East Bay for Everyone
East Bay Housing Organizations
Eden Housing
Leadingage California
Our Future Los Angeles
People for Housing - Orange County
Resources for Community Development
Supportive Housing Alliance

Opposition

El Dorado Irrigation District (Unless Amended)
Palmdale Water District (Unless Amended)
Pacific Gas and Electric Company
San Diego Gas & Electric
Southern California Edison

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