



Senate California Legislature

Mike Morrell

Senator, Twenty-Third District

SB 646: Local Agency Utility Services

BILL SUMMARY

SB 646 ensures citizens receive fair and equitable treatment by local agencies when they are charged fees for utility services.

Specifically, the bill clarifies the law by specifying that any utility connection fee charged to a property owner by a city must bear a fair or reasonable relationship to the payer's burdens on, or benefits received from, the utility connection.

BACKGROUND

Proposition 218 was passed in 1996 in an effort to clarify the ways local governments are allowed to raise revenues by ensuring that all taxes and most charges on property owners are subject to voter approval. Furthermore, it set standards on the use of assessments and property-related fees, specifically the use of revenue-raising tools to pay for general governmental services rather than property-related services.

Voters passed Proposition 26 in 2010, which aimed to further clarify the provisions of Prop 218. Prop 26 requires certain "fees" to be passed by a two-thirds vote of the legislature or a local electorate. The initiative sought to stop the government's practice of approving more fees in recent years because of the easier simple-majority vote threshold that had to be reached instead of the supermajority required for taxes."

The Mitigation Fee Act of 1987 provided restrictions on how local agencies can charge citizens fees for utilities, ensuring that they cannot exceed the estimated reasonable cost of providing the service for which the fee or charge is imposed. If the reasonableness of the charge comes into question, it must be submitted to and approved by two-thirds of the electors voting on the issue. This law, along with Props 218 and 26, seeks

to ensure that citizens are not extorted in their government's attempts to raise revenue.

Unfortunately, there is still some ambiguity in statute regarding how and when the rules established in Props 218 and 26 fit within the context of a local agency providing utility services.

PROBLEM

Because the Mitigation Fee Act does not specifically enumerate the principles established in Props 218 and 26 in the context of a local agency providing utility services, there is room for cities to unfairly charge citizens connection fees.

For example, a city could charge a property owner a connection fee to receive water services, but use excess charges to fund expansion of infrastructure not necessarily to service the property owner charged, but perhaps beneficial to the city for future expansion or developments. This is prohibited by the rules of Prop 26, but left unclear in the Mitigation Fee Act, leaving room for confusion.

SOLUTION

SB 646 will eliminate the confusion in the Mitigation Fee Act by enumerating the principle that was established in Props 218 and 26, that any utility connection fee charged to a property owner by a city must bear a fair or reasonable relationship to the payer's burdens on, or benefits received from, the utility connection.

SUPPORT

California Association of Realtors
California Building Industry Association
Howard Jarvis Taxpayers Association

BILL STATUS

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