

B I L L R E F E R R A L

DATE: March 21, 1986

COMMITTEE ACTION: _____

TO:

DATE: _____

FROM:

REPLY NO LATER THAN: April 4, 1986 (Bill set for hearing 4/08/86)

A.B. 4181 S.B. Relating to Development Fees

STATUS: Set for hearing in Assembly Transportation Committee April 8, 1986

Please review the attached measure to determine its effect upon the City of Sacramento and complete the following questions as appropriate. During your analysis of this measure, if questions arise, please feel free to contact me at X5346. This questionnaire should be returned to me for presentation to the Council Committee on Law and Legislation. PLEASE LEAVE THE BILL ATTACHED TO THIS FORM.

PLEASE TYPE YOUR RESPONSE

- 1. Briefly describe the provisions of the bill (attach additional sheets if necessary).

This bill provides that any fee imposed on a development for public capital facilities or improvements as a condition of approval of the development shall not exceed the need for the facilities caused by the development. The bill also requires the local agency to make a series of findings prior to imposing the fee, including (a) the statutory or constitutional authority to impose the fee, (b) a schedule specifying where, when, and what facilities are to be constructed, and (c) the relationship between the amount of the fee imposed and the need for the facilities caused by the development.

- 2. Should this measure be: (Please circle desired position)

Supported

Opposed

Supported if Amended

Placed on Watch List

Other (explain)

- 3. Please explain your reasons for the above determination, including how this measure affects your Department and the fiscal impact of this measure to the City. (Your analysis will be used in communicating with the Governor and the Legislature, so please make your comments in a format that can be used in a letter to those officials.) (Attach additional sheets if necessary.)

3. With respect to specific impact fees, AB 4181 creates a major problem for cities and counties, because some types of fees or exactions cannot be directly measured by the burden attributable to the particular development. For example, both a large development and a small development may have an identical requirement of improving a peripheral public street, despite the fact that the larger development would have substantially greater impact on traffic than the smaller development. Nevertheless, it is reasonable for the local agency to require each development to improve the street. The present standard of requiring a "reasonable relationship" between the burden and the exaction allows considerable leeway on the part of public agencies to condition developments. AB 4181 would substantially decrease the discretion and impose a much more rigid standard than presently exists.

With respect to general impact fees, which are charged to new development on the basis of an ordinance or legislation which prescribes the fee in advance based upon a formula or some other uniform method, AB 4181 is even more serious. The City's formula does consider the actual or direct relationship between the needs generated by a particular development and the exactions imposed, but, because the fees must be determined prior to the actual development occurring, the calculations are necessarily somewhat generalized. Exact measurement in advance of development is not feasible. General needs of the community and cumulative impacts of all projects provide an adequate basis for imposition of this type of exaction. AB 4181 would preclude general impact fees and require that all such fees be fixed on a project by project basis. This result would be a major change in the law relating to fees and exactions.

Development is piecemeal and subject to market changes. Uses change, impacts change. For these reasons, direct measurement is not reasonable. This bill would make it difficult to make practical solutions to real problems. Administrative costs also would rise. Development might have to be restricted, because problems could not be solved.

4. Specify the City's legislative policy guideline(=) applicable to this measure (if any).

5. If this measure could be amended to either improve its favorable aspects or to minimize its adverse aspects, which amendments would you propose?

No amendments are possible.

6. List known support or opposition to this measure by groups with which you are familiar and include addresses and phone numbers, if known. League of California Cities position:

Support: Building Industry Association

Opposition: League of California Cities

7. Does this bill involve a State-mandated local program? If so, does the bill contain an S.B. 90 waiver, or an appropriation for allocation and disbursement to local agencies pursuant to Revenue and Taxation Code Section 2231?

Yes; no appropriation. Bill provides for reimbursement under Section 17500 of the Government Code.

8. Using a rating scale of 1 to 10 (with 10 as the most important), how important do you think this bill is to the City of Sacramento?
10

ASSEMBLY BILL

No. 4181

Introduced by Assembly Member Bader

February 21, 1986

An act to add Section 65011 to the Government Code, relating to fees.

LEGISLATIVE COUNSEL'S DIGEST

AB 4181, as introduced, Bader. Planning and zoning.

(1) Existing law authorizes counties and cities to impose fees for various purposes.

This bill would specify that any fee imposed on a development, as defined, under the planning and zoning law for public capital facilities or improvements, as defined, shall not exceed the need for the facilities or improvements caused by the development and would require the city or county to make specified findings prior to imposing the fee. This requirement would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that reimbursement for costs mandated by the bill shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$500,000, shall be payable from the State Mandates Claims Fund.

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

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

1 SECTION 1. Section 65011 is added to the
2 Government Code. to read:

3 65011. (a) Any fee imposed by a city or county on a
4 development pursuant to this division for public capital
5 facilities or improvements as a condition of approval of
6 the development shall not exceed the need for the
7 facilities or improvements caused by the development.

8 (b) Prior to imposing any fee on a development
9 pursuant to this division as a condition of approval of the
10 development, the city or county shall make all of the
11 following findings:

12 (1) The statutory or constitutional authority for the
13 city or county to impose the fee.

14 (2) That the city or county has adopted a schedule
15 specifying where, when, and what public capital facilities
16 or improvements are to be constructed with the fee.

17 (3) The relationship between the amount of the fee
18 imposed and the need for the public capital facilities or
19 improvements caused by the development.

20 (c) As used in this section:

21 (1) "Development" means the construction,
22 reconstruction, demolition, rehabilitation, or alteration of
23 any commercial, residential, or industrial structure.

24 (2) "Public capital facility or improvement" includes
25 the planning, acquisition, construction, repair,
26 replacement, rehabilitation, or improvement of streets
27 and roads, street lighting, bridges, overpasses, viaducts,
28 water storage and delivery systems, storm and sanitary
29 sewage systems, parks and plazas, sidewalks, bikeways,
30 landscaping, and transportation systems.

31 (d) This section does not apply if the city or county
32 and the developer have entered into an agreement
33 whereby the city or county agrees to construct the public
34 capital facilities and the developer agrees to reimburse
35 the city or county for all or a portion of the cost of those
36 facilities.

37 (e) This section does not grant any additional
38 authority to levy any fee which is not otherwise

1 authorized by another provision of law nor does this
2 chapter grant authority to levy a new fee when other
3 provisions of law specifically prohibit the levy of a fee.

4 (f) This section does not require any city or county to
5 review or revise any fee or charge which is in effect
6 January 1, 1987.

7 SEC. 2. Reimbursement to local agencies and school
8 districts for costs mandated by the state pursuant to this
9 act shall be made pursuant to Part 7 (commencing with
10 Section 17500) of Division 4 of Title 2 of the Government
11 Code and, if the statewide cost of the claim for
12 reimbursement does not exceed five hundred thousand
13 dollars (\$500,000), shall be made from the State Mandates
14 Claims Fund.

O