



B I L L   R E F E R R A L

DATE: July 29, 1986

COMMITTEE ACTION: \_\_\_\_\_

TO: Ted Kobey

DATE: \_\_\_\_\_

FROM: Public Works Administration

REPLY NO LATER THAN:

A.B. 3314 (Leonard)    S.B.

Relating to Delayed payment of  
Development Capital  
Improvement Fees

STATUS: Pending hearing in Senate Appropriations  
Committee

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).

The bill provides that developer fees collected for the purpose of funding capital improvements may not be collected from developers until the final inspection of a construction project and exempts utility fees, such as sewer, water, electrical and gas, from this postponement provision. The bill also provides that the fees or charges may be collected prior to the final inspection if "the local agency determines that the fees or charges will be expended, have been appropriated, or will have been expended or encumbered for the (continued on attached page)

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.)

(See attached)

## ATTACHMENT

1. the public improvements prior to the final inspection or certificate of occupancy or, the fees or charges are for reimbursement of expenditures for public improvements prior to the date the payment is collected." The bill makes no provision with regard to a public agency's ability to require security that the fees will be paid at the time of the final inspection. The bill sunsets in six years.
  
3. The City should oppose this bill for the following reasons: (1) The absence of a provision authorizing security or liens to guarantee payment will potentially result in debt problems. These problems will either postpone the construction of necessary capital improvements or will result in cities having to charge developers more to cover the uncollected portion of the fees. (2) The provision regarding the collection of fees prior to final inspection is inadequate to enable a city to collect fees (cities cannot predict when final inspection occurs - this is up to the builder), at the time it is needed. (3) The bill does not speak to situations involving lot sale subdivisions, where one person subdivides the property but someone else, either the ultimate consumer or another developer, builds the homes on the lots. In these cases, collection could be quite difficult. (4) The bill does not require disclosure of these fees to potential buyers, which could result in consumers ending up paying much more money for construction of their homes when they are custom-built. Deferral of fees will lead to a delay in the construction of necessary public improvements needed to serve development, and to mitigate the impacts of development.

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

7.9 (b) Oppose legislation which will reduce the options, methods, alternatives and flexibility available to the City in dealing with problems, issues, and policies of local government.

5. If this measure could be amended to either improve its favorable aspects or to minimize its adverse aspects, which amendments would you propose? The following amendments would be necessary to minimize the bill's adverse effects: (1) An amendment requiring a builder to post and record a security agreement which would act as a lien against the property, to guarantee payment of fees. (2) An amendment enabling cities to collect fees at an earlier point than final inspection if budgets show that the money will be needed within a certain time period from the date of the development approval.

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:

League of California Cities: OPPOSED

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?

The Legislative Counsel believes that AB 3314 imposes a mandate because it prohibits early collection of fees. Nevertheless, the bill disclaims any responsibility to reimburse local agencies because it does not create any new programs or increase services. The bill makes no appropriation to cover these costs.

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

AMENDED IN SENATE JULY 8, 1986  
AMENDED IN SENATE JUNE 30, 1986  
AMENDED IN ASSEMBLY JUNE 4, 1986  
AMENDED IN ASSEMBLY APRIL 23, 1986  
AMENDED IN ASSEMBLY APRIL 7, 1986

CALIFORNIA LEGISLATURE—1985-86 REGULAR SESSION

**ASSEMBLY BILL**

**No. 3314**

Introduced by Assembly Member Leonard  
(Coauthors: Assembly Members Ferguson, Frizzelle, and  
Jones)  
(Coauthors: Senators Doolittle, Presley, Royce, and Stiern)

February 19, 1986

An act to add *and repeal* Section 53077.5 ~~to~~ of the Government Code, relating to local agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 3314, as amended, Leonard. Local agencies: fees or charges.

(1) Existing law authorizes local agencies to impose fees and charges for various purposes.

This bill would impose a state-mandated local program by prohibiting any local agency, as defined, that imposes fees or charges for the construction of public improvements or facilities on a residential development from requiring the payment of the fee or charge until the date of the final inspection or the date the certificate of occupancy is issued, whichever occurs later, unless (a) the fees or charges are for a residential development which contains more than one dwelling unit, (b) the local agency determines that the fees and charges will be expended, have been appropriated, or

will have been expended or encumbered for the public improvements prior to the final inspection or the issuance of the certificate of occupancy, or (c) the fees or charges are for reimbursement of expenditures expended for public improvements prior to the date the payment is collected. If the residential development contains more than one dwelling unit, the bill would permit the local agency to elect to require payment of the fees or charges in one of 3 prescribed ways. However, if the local agency determines that fees or charges on any residential development will be expended, have been appropriated, or will have been expended or encumbered, the bill would permit the local agency to require the payment of the fees or charges at an earlier time.

*The bill would require the Legislative Analyst to prepare a report for submission to the Legislature evaluating the implementation of the bill.*

*The provisions of the bill would remain in effect until January 1, 1993.*

(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 state that it does not mandate a new program or higher level of service on local government. It would also provide that a local agency or school district may pursue any remedies to obtain reimbursement under the above-described statutory procedures.

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 53077.5 is added to the  
2 Government Code, to read:  
3 53077.5. (a) Except as otherwise provided in  
4 subdivision (b), any local agency which imposes any fees  
5 or charges on a residential development for the

1 construction of public improvements or facilities shall not  
2 require the payment of those fees or charges,  
3 notwithstanding any other provision of law, until the date  
4 of the final inspection, or the date the certificate of  
5 occupancy is issued, whichever occurs last, *provided,*  
6 *that utility service fees may be collected at the time an*  
7 *application for utility service is received.* If the residential  
8 development contains more than one dwelling, the local  
9 agency may determine whether the fees or charges shall  
10 be paid on a pro rata basis for each dwelling when it  
11 receives its final inspection or certificate of occupancy,  
12 whichever occurs last; on a pro rata basis when a certain  
13 percentage of the dwellings have received their final  
14 inspection or certificate of occupancy, whichever occurs  
15 last; or on a lump sum basis when the last dwelling in the  
16 development receives its final inspection or certificate of  
17 occupancy, whichever occurs first.

18 (b) Notwithstanding subdivision (a), the local agency  
19 may require the payment of those fees or charges at an  
20 earlier time if (i) the local agency determines that the  
21 fees or charges will be expended, have been  
22 appropriated, or will have been expended or  
23 encumbered for the public improvements prior to the  
24 final inspection or the issuance of the certificate of  
25 occupancy or (ii) the fees or charges are for  
26 reimbursement of expenditures expended for public  
27 improvements prior to the date the payment is collected.

28 (c) "Local agency," as used in this section, means a  
29 county, city, or city and county, whether general law or  
30 chartered, or district. "District" means an agency of the  
31 state, formed pursuant to general law or special act, for  
32 the local performance of governmental or proprietary  
33 functions within limited boundaries.

34 (d) This section applies only to fees collected by a local  
35 agency to fund the construction of public improvements  
36 or facilities. It does not apply to fees collected to cover the  
37 cost of code enforcement or inspection services, or to  
38 other fees collected to pay for the cost of enforcement of  
39 local ordinances or state law.

40 (e) "Final inspection" or "certificate of occupancy," as

1 used in this section, have the same meaning as described  
2 in Sections 305 and 307 of the Uniform Building Code,  
3 ~~International~~ International Conference of Building  
4 Officials, 1985 Edition.

5 (f) *The Legislative Analyst shall submit a report to the*  
6 *Legislature by January 1, 1992, which evaluates the*  
7 *implementation of this section. In preparing the report,*  
8 *the Legislative Analyst shall consult with individuals and*  
9 *associations who, in the opinion of the Legislative*  
10 *Analyst, are knowledgeable about the impact of this*  
11 *section. Those individuals and associations shall include,*  
12 *but not be limited to, representatives of builders,*  
13 *landowners, planners, civil engineers, land surveyors,*  
14 *counties, cities, school districts, special districts, and*  
15 *public utilities.*

16 (g) *This section shall remain in effect only until*  
17 *January 1, 1993, and as of that date is repealed, unless a*  
18 *later enacted statute, which is chaptered before January*  
19 *1, 1993, deletes or extends that date.*

20 SEC. 2. No reimbursement is required by this act  
21 pursuant to Section 6 of Article XIII B of the California  
22 Constitution because this act does not mandate a new  
23 program or higher level of service on local government.  
24 It is recognized, however, that a local agency or school  
25 district may pursue any remedies to obtain  
26 reimbursement available to it under Chapter 4  
27 (commencing with Section 17550) of Part 7 of Division 2  
28 of Title 2 of the Government Code.