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SB-1386 Local government: assessments, fees, and charges: water: hydrants. (2019-2020)

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Senate Bill No. 1386

CHAPTER 240

An act to add Section 53750.5 to the Government Code, relating to local government finance.

[Approved by Governor September 28, 2020. Filed with Secretary of State September 28, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1386, Moorlach. Local government: assessments, fees, and charges: water: hydrants.

The California Constitution specifies various requirements with respect to the levying of assessments and property-related fees and charges by a local agency, including requiring that the local agency provide public notice and a majority protest procedure in the case of assessments and submit property-related fees and charges for approval by property owners subject to the fee or charge or the electorate residing in the affected area following a public hearing.

Existing law, known as the Proposition 218 Omnibus Implementation Act, prescribes specific procedures and parameters for local jurisdictions to comply with these requirements and, among other things, authorizes an agency providing water, wastewater, sewer, or refuse collection services to adopt a schedule of fees or charges authorizing automatic adjustments that pass through increases in wholesale charges for water, sewage treatment, or wastewater treatment or adjustments for inflation under certain circumstances. Existing law defines, among other terms, the term "water" for these purposes to mean any system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water from any source.

This bill would specify that hydrants, as defined, are part of the system of public improvements included in the definition of "water" for purposes of the Proposition 218 Omnibus Implementation Act. The bill would specify that the fees or charges for property-related water service imposed or increased, as specified, may include the costs to construct, maintain, repair, or replace hydrants as needed or consistent with fire codes and industry standards, and may include the cost of water distributed through hydrants. The bill would also authorize the fees or charges for the aspects of water service related to hydrants and the water distributed through them to be fixed and collected as a separate fee or charge, or included in the other water rates and charges fixed and collected by a public agency, as specified.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 53750.5 is added to the Government Code, to read:

53750.5. (a) The Legislature finds and declares all of the following:

- (1) Fire service is a different and distinct service from water service, which is one of several other property-related services that aids in the provision of fire service provided to properties.

(2) Hydrants are part of the system of public improvements described in subdivision (n) of Section 53750.

(3) Hydrants are generally designed, installed, and used to provide an immediately available water service to aid in extinguishing fires that threaten property served by a water service provider, and are generally not designed or installed to provide water service to aid in extinguishing fires that threaten property not served by a water service provider or wildfires. Hydrants are also used by a water service provider for water system operations and maintenance.

(4) Hydrants are generally located in proximity to properties served by a water service provider to facilitate water service to those properties. Hydrants and the water distributed through them have a direct relationship to property ownership because hydrants are generally sized based upon property use and then are installed when parcels are developed or connected to a water system.

(5) Hydrants and the water distributed through them are not available to the public at large in substantially the same manner as they are to property owners served by a water service provider because hydrants are designed, installed, and used to serve properties receiving water service, and the public at large does not generally have access to water through those hydrants. Incidental or other de minimis use of hydrants and the water distributed through them for other purposes does not change their essential character as a property-related service.

(6) Hydrants and the water distributed through them are part of the property-related water service provided to all property owners served by a water service provider. Through hydrants, water is immediately available to those properties to aid in extinguishing a fire that directly threatens them. The cost associated with this aspect of water service is proportionately allocable among properties that may receive a reasonably similar level of service from the immediate availability of water to aid in extinguishing fires that directly or indirectly threaten those properties.

(7) Property-related water service costs may include, but are not limited to, any costs associated with constructing, maintaining, repairing, upgrading, and replacing hydrants, and costs associated with obtaining, treating, and distributing adequate volumes of water to meet the water demands of properties served by the water service provider, including water supplied for firefighting purposes. The fees or charges related to those costs are imposed upon a parcel or person as an incident of property ownership.

(b) The fees or charges for property-related water service imposed or increased pursuant to Section 6 of Article XIII D of the California Constitution may include the costs to construct, maintain, repair, or replace hydrants as needed or consistent with applicable fire codes and industry standards, and may include the cost of water distributed through hydrants. In addition to any other method consistent with Section 6 of Article XIII D of the California Constitution, fees or charges for the aspects of water service related to hydrants and the water distributed through them may be fixed and collected as a separate fee or charge, or included in the other water rates and charges fixed and collected by a public agency, as provided for in Section 53069.9 of the Government Code.

(c) For the purpose of this section, "hydrants" means all hydrants and other infrastructure used to distribute water that aids in the protection of property from fire, and all related or appurtenant infrastructure and facilities owned by a water service provider necessary or convenient for distributing water that aids in the protection of property from fire, including adequately sized and pressurized lines, pumps, and all appurtenances, but does not include privately owned hydrants or other private fire response related infrastructure.

(d) This section is declaratory of existing law.