
**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**

**Senator Steven Bradford, Chair
2023 - 2024 Regular**

Bill No:	SB 1210	Hearing Date:	4/2/2024
Author:	Skinner		
Version:	3/18/2024 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Nidia Bautista		

SUBJECT: New housing construction: electrical, gas, sewer, and water service connections: charges

DIGEST: This bill would impose a cap on the amount that may be recovered by utilities to provide service and upgrade capacity to serve new housing construction. This bill would also require utilities to provide financing over 10 years for any charges, prioritization of housing applications for service, and require specified transparency of utility fees/charges for new service and capacity upgrades.

ANALYSIS:

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 §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. Exempts from the definition certain

corporations generating electricity via cogeneration technologies, landfill gas technology, digester gas technology, and independent solar producers. (Public Utilities Code §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. Does not include within the definition of a gas corporation a corporation or person employing landfill gas technology for the production of gas for its own use or the use of its tenants or for sale to a gas corporation or state or local public agency, with some exceptions. (Public Utilities Code §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. (Public Utilities Code §230.6)
- 7) Defines “municipal utility district” as a district formed under the Municipal Utility District Act. (Public Utilities Code §11503)
- 8) 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 §82048.5)
- 9) 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. (Government Code §66000 *et seq.*)
- 10) Requires an electrical corporation to permit any new or existing customer who applies for an extension of service from that electrical corporation to install an electric extension in accordance with the regulations of the CPUC and any applicable specifications of that electrical corporation. (Public Utilities Code §783)
- 11) 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)

- 12) 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)
- 13) 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)

This bill:

- 1) Prohibits, for new housing construction, a connection, capacity, or other point of connection charge from a public utility or a special district, including a municipal utility district, for electrical, gas, sewer, or water service from exceeding one percent of the reported building permit value of that housing unit.
- 2) Requires a public utility or special district to issue an above-described charge over a period of at least 10 years commencing on the date when the housing unit is first occupied, as specified.
- 3) Requires a public utility or special district to publicly report on its internet website the amount of any charge issued each year pursuant the above-described provision by the housing unit's address.
- 4) Requires a public utility or special district to prioritize the processing, approval, scheduling, and completion of electrical, gas, sewer, and water service connections to new housing construction over the processing, approval, scheduling, and completion of service connections to all other structures.
- 5) To the extent that this bill imposes new requirements on certain special districts, the bill would impose a state-mandated local program.

Background

Study on development fees for new housing construction. The Turner Center for Housing Innovation at UC Berkeley authored a study, *It All Adds Up: the Cost of Housing Development Fees in Seven California Cities* (March 2008), on the various development fees imposed on new housing construction. The study attempts to dive into the development fees which cities levy to pay for services needed to build new housing or to offset the impacts of growth on the community. Per the study, the development fees make up a significant portion of the costs to build new housing in California cities. The study states that on average these fees

continue to rise, while nationally fees have decreased. The authors found that development fees for multifamily housing range from a low of \$12,000 per unit in Los Angeles, to \$75,000 per unit in Fremont. Fees for single family housing range from \$21,000 per home in Sacramento to \$157,000 per home in Fremont. They found that fees can amount from six percent to 18 percent of the median home price depending on the location. Development fees include service fees and impact fees. These include city staff time to process permits, and fees for new roads, and other infrastructure.

Connecting to the electric and gas distribution grid. Rules governing the ability of new buildings and generation and storage resources to connect to the electric and gas distribution grid are generally determined by statute, CPUC rules, and tariffs, (i.e., document that specify rates, charges, rules, and conditions under which an electrical corporation will provide services to the public) for each of the electrical corporations. These service connections include:

New service connections refers to extending an electricity or expanding distribution infrastructure to service new or expanded customer load, known as “energization.” Electric Tariff Rules 15 and 16 establish the guidelines for design, cost allocation, and responsibilities of a project applicant and a utility for electric distribution line extensions. The ability to connect to the larger electrical system can take months (if not, years, in some cases) as the process can entail the need for designs, assessments on costs allocations associated with improvements on the electric distribution system to allow for the connection, and other issues. In the case of new building developments, depending on the size of the development, the need for electric service extensions may be needed in phases over months, or years.

Water utilities. California residents are served by an estimated 2,800 water providers of various types of water utilities or water systems, including publicly owned utilities (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.

- *Publicly owned water and sewer utilities.* The majority of California’s residential water customers are served by cities, special districts, and mutual water companies. 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 water rates. As established by Proposition 218 (1996), the majority of these utilities are subject to state constitutional and statutory requirements that ensure water rates are restricted to cost-of-service. 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.

- *CPUC-regulated water and sewer utilities.* The CPUC has regulatory oversight over water companies that provide water service to about 16 percent of California’s residents with annual water and wastewater revenues totaling about \$1.4 billion. Approximately 95 percent of those residents are served by nine large water utilities, each serving more than 10,000 customer service connections (approximately 1.175 million customers). However, 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.

Proposition 218 and Proposition 26. POUs are subject to differing constraints on their ability to collect rates for rate relief from one customer to another. 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.

Article XIID of the California Constitution, added by Proposition 218 in 1996, requires, among other things, that the revenues derived from property related fees and charges not exceed the funds required to provide the property related service... Proposition 218 also requires that property related fees and charges not exceed the proportional cost of service attributable to the property. In addition, 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. The systems bear the burden of proving compliance with these cost-of-service requirements. These substantive restrictions on ratemaking by publicly owned water systems prevent subsidization of one customer’s water rates by another... [Source: SB 401 (Dodd, Chapter 662, Statutes of 2015) report on funding low-income water assistance programs.]

Mitigation Fee Act. The Mitigation Fee Act generally applies a broad “reasonable relationship” standard to fees and exactions, meaning that fee amounts must be arguably reasonable relative to the impacts of the project. This component of the Mitigation Fee Act makes up the basis for each city’s “nexus study,” which cities must commission to determine the type and amount of AB 1600 (Cortese, Chapter 927, Statutes of 1987) fees charged on new development. Other fees include public good fees, such as art or affordable housing. In the case of the Mitigation Fee Act,

many of the opponents of the bill note the application of the Act that will limit their ability to comply with the requirements of this bill. Another Turner report, *Residential Impact Fees in California (2019)*, states that the Act would not apply to utility fees. However, the special districts opposed to this bill argue otherwise. This is an issue that may be best addressed in the Committee on Local Government, if needed.

Comments

Costs to ratepayers. By capping fees on new service connections, new housing developments would reduce their costs. However, any delta from the capped fee is likely to result in a need for a utility to collect the funds from some other source. As noted above, the ability for utilities to engage in such a practice can be limiting by legal limitations and concerns about increasing costs to other customers. Additionally, the ten year financing of the utility fees will result in utilities risking the recovery of these costs, and of occupants of the developments (rather than the developer) to take on the costs of this financing. As such it is not clear that the financing will help reduce the costs for the housing construction as intended.

Need for amendments. Based on conversations with the author's office about the pieces of the bill that may be workable at this time, the committee may wish to delete the provisions of the bill that would cap fees, impose the ten year financing period, and prioritize housing construction applications for new service connections. *As such, the committee may wish to amend this bill to strike these provisions and make clarifying changes to the transparency requirements regarding costs for new service connections, as the need for increased transparency on these charges was identified in both the Turner Report and the author's exploration with the California Research Bureau. The author and committee may wish to apply these transparency requirements to all utilities, including all publicly owned utilities who do not seem to be included in the bill at this time.*

Dual Referral. Should this bill be approved by this committee, it will be re-referred to the Senate Committee on Local Government.

Prior/Related 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." The bill proposed several policies to address delays in connecting customers to the electrical grid, including improved information sharing with local governments,

reporting by electric IOUs, and other measures. The bill is pending on the Senate Floor.

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.

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) 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.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT:

Housing Action Coalition, Sponsor
LeadingAge California
Resources for Community Development

OPPOSITION:

American Water Works Association California-Nevada Section
Association of California Water Agencies
California Association of Sanitation Agencies
California Municipal Utilities Association
California Special Districts Association
Desert Water Agency
El Dorado Irrigation District
Inland Empire Utilities Agency
Mission Springs Water District

Pacific Gas and Electric Company
San Diego Gas and Electric Company
Southern California Edison

ARGUMENTS IN SUPPORT: In support of this bill, Housing Action Coalition states:

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. 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. With SB 1210, each utility hook-up fee would be capped at 1% of the cost of the building permit value, as well as would require utilities to prioritize hook-ups for housing utilities over other structures

ARGUMENTS IN OPPOSITION: In opposition to this bill, public and private utilities express concerns about the legal and practical limitations on utilities' ability to waive or discount fees. In general, all utilities express concerns that the capped fees and ten year financing period would put utilities and their customers at risk of having to absorb these costs (and result in legal risks). Additionally, utilities in opposition express concerns that prioritizing housing applications for new service connections may be unworkable, as these applications may represent the majority of new service connections for some utilities. Additionally, such a prioritization could result in other customers never receiving the requested service as new housing applications could continue to pile up.

-- END --