

AMENDED IN SENATE APRIL 8, 2013

SENATE BILL

No. 536

Introduced by Senator Berryhill

February 22, 2013

An act to ~~amend Section 815 of~~ *add Section 53757 to* the Government Code, relating to ~~government liability~~ *local government*.

LEGISLATIVE COUNSEL'S DIGEST

SB 536, as amended, Berryhill. ~~Government tort claims. Property-related services.~~

The California Constitution, with certain exceptions, conditions the imposition or increase of a property-related fee or charge upon less than a majority of owners of subject parcels submitting written protests, and approval by either a majority vote of the owners of the properties subject to the fee or charge or, under certain conditions, by a $\frac{2}{3}$ vote of the voters residing in the area affected by the fee or charge.

This bill would provide that a district, as defined, shall not be obligated to provide subsidies to cure any deficiencies in funding of property-related services provided in the district's jurisdiction under any of certain specified circumstances. This bill would provide that this prohibition would not apply if the district's governing board had agreed to subsidize the services before the completion of a majority protest proceeding or election, as specified.

~~Existing law governs the tort liability and immunity of, and claims and actions against, public entities and their officers and employees. A public entity, as defined, is not liable for an injury, except as otherwise provided by statute, whether the injury arises out of an act or omission of the public entity or a public employee or any other person.~~

~~This bill would make a technical, nonsubstantive change to this provision.~~

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

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

1 SECTION 1. Section 53757 is added to the Government Code,
2 to read:
3 53757. (a) A district shall not be obligated to provide subsidies
4 to cure any deficiencies in the funding of property-related services
5 provided within the district’s jurisdiction, if any of the following
6 conditions exist:
7 (1) The district’s governing board proposed to impose, extend,
8 or increase property-related fees or charges for the services, the
9 board fully complied with Section 6 of Article XIII D of the
10 California Constitution, and a majority of parcel owners submitted
11 a written protest against the proposed imposition, extension, or
12 increase, pursuant to subdivision (a) of Section 6 of Article XIII D
13 of the California Constitution.
14 (2) The district’s governing board proposed to impose, extend,
15 or increase property-related fees or charges for the services, the
16 board fully complied with Section 6 of Article XIII D of the
17 California Constitution, and the proposed imposition, extension,
18 or increase failed to get voter approval pursuant to subdivision
19 (c) of Section 6 of Article XIII D of the California Constitution.
20 (3) Property-related fees or charges for the services that comply
21 with Section 6 of XIII D of the California Constitution were reduced
22 or repealed by the voters by an initiative pursuant to Section 3 of
23 Article XIII C of the California Constitution.
24 (b) Subdivision (a) shall not apply if the district’s governing
25 board had undertaken the obligation to subsidize the services
26 before the completion of a majority protest proceeding or election
27 described in paragraph (1), (2), or (3) of subdivision (a).
28 (c) For purposes of this section, “fully complies with Section 6
29 of Article XIII D of the California Constitution” means all of the
30 following:
31 (1) Revenues derived from the proposed fee or charge do not
32 exceed the funds required to provide the property-related service.

1 (2) Revenues derived from the fee or charge are not used for
2 any purpose other than that for which the fee or charge was
3 imposed.

4 (3) The amount of the fee or charge imposed on any parcel or
5 person as an incident of property ownership does not exceed the
6 proportional cost of the service attributable to the parcel or person.

7 (4) The fee or charge is not imposed for a service unless and
8 until that service is actually used by, or immediately available to,
9 the property owner in question.

10 (5) The fee or charge is not imposed for general government
11 services if the service is available to the public at large in
12 substantially the same manner it is to property owners.

13 (6) The district has identified all parcels upon which the fee or
14 charge is proposed and calculated the amount of the fee or charge
15 to be imposed upon each identified parcel.

16 (7) The district has provided a written notice by mail of the
17 proposed fee or charge to the record owner of each identified
18 parcel, in conformance with subdivision (c) of Section 6 of
19 Article XIII D of the California Constitution, and provided for all
20 required hearings.

21 (d) For purposes of this section, “district” shall mean a local
22 governmental entity created for the purpose of providing sidewalks,
23 streets, sewers, water, flood control, drainage systems, or vector
24 control services within its jurisdiction with a governing board that
25 has the same members as the board of supervisors for the county
26 in the overlapping geographical area.

27 SECTION 1. Section 815 of the Government Code is amended
28 to read:

29 815. Except as otherwise provided by statute:

30 (a) ~~A public entity is not liable for an injury, whether the injury~~
31 ~~arises out of an act or omission of the public entity or a public~~
32 ~~employee or any other person.~~

33 (b) ~~The liability of a public entity established by this part~~
34 ~~(commencing with Section 814) is subject to any immunity of the~~
35 ~~public entity provided by statute, including this part, and is subject~~
36 ~~to any defenses that would be available to the public entity if it~~
37 ~~were a private person.~~