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# SENATE COMMITTEE ON LOCAL GOVERNMENT

Senator María Elena Durazo, Chair

2025 - 2026 Regular

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**Bill No:** AB 2180  
**Author:** Ward  
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**Fiscal:** No  
**Consultant:** Peterson

***LOCAL GOVERNMENT: PROPOSITION 218 OMNIBUS IMPLEMENTATION ACT:  
PROPORTIONAL COST OF SERVICE***

*Allows local agencies, for the purpose of calculating property-related fees and charges to comply with Proposition 218, to demonstrate the proportional cost of service to the parcel with any method that reasonably allocates the cost of providing service to all parcels*

## **Background**

***Proposition 218 procedures.*** Proposition 218 (1996) imposed constitutional limits on local officials' ability to impose, increase, and extend fees, including property-related fees. Proposition 218 defined a property-related fee as any levy other than an *ad valorem* tax, a special tax, or an assessment imposed by an agency on a parcel or on a person as an incident of property ownership, including a user fee for a property-related service. The Legislature enacted the Proposition 218 Omnibus Implementation Act to translate many of Proposition 218's requirements into statutory definitions and procedures (SB 919, Rainey, 1997).

Before a local government can charge a new property-related fee, or increase an existing one, Proposition 218 requires local officials to:

- Identify the parcels to be charged;
- Calculate the fee for each parcel;
- Notify the parcels' owners in writing about the fee, the reason for imposing or increasing it, the basis for calculating the fee, and the date of a public hearing on the proposed fee;
- Hold a public hearing to consider and count protests at least 45 days after mailing the notice; and
- Abandon the fees if a majority of the parcels' owners protest.

***Requirements on fees.*** New or increased property-related fees cannot exceed the proportional cost of service to each parcel. They also generally require a majority-vote of the affected property owners, two-thirds registered voter approval, or weighted ballot approval by the affected property owners. However, Proposition 218 exempts various local fees from some or all of its requirements:

- Fees for electric and gas service are exempt from all of its requirements;
- Sewer, water, or refuse collection services are exempt from Proposition 218's voter approval requirements; and
- Development fees are a separate category of fee not subject to Proposition 218's requirements. Examples of these fees include the fees that water and sewer agencies

charge when a new user connects to their systems (known as “connection fees” and “capacity charges”).

**Recent water rate litigation.** Water rates have been fertile ground for lawsuits since voters approved Proposition 218 in 1996.

In 2015, *Capistrano Taxpayers Association v. City of San Juan Capistrano* (2015) 235 Cal.App.4th 1493, the court ruled that the City’s water pricing violated the constitutional requirement that fees not exceed the proportional cost of the service attributable to the parcel. The court continued by saying, “This is not to say City Water must calculate a rate for 225 Elm Street and then calculate another for the house across the street at 226. Neither the voters nor the Constitution say anything we can find that would prohibit tiered pricing.” The court also stated that “And, we emphasize, there is nothing at all in subdivision (b)(3) or elsewhere in Proposition 218 that prevents water agencies from passing on the incrementally higher costs of expensive water to incrementally higher users.” Lastly, the court noted that “...we see nothing in article XIII, section 6, subdivision (b)(3) of the California Constitution that is incompatible with water agencies passing on the true, marginal cost of water to those consumers whose extra use of water forces water agencies to incur higher costs to supply that extra water.” Courts have interpreted the application of Proposition 218’s constitutional provisions numerous times, and despite the ruling in *Capistrano*, disputes over how best to determine rates continue to this day.

In 2019, the California Supreme Court ruled challenges to the methodology used to determine rates are by their nature “substantive” as the existing law provides no “clearly defined machinery for the submission, evaluation, and resolution of complaints by aggrieved parties” (*Plantier v. City of Ramona Municipal Water District* (2019) (7 Cal.5th 372, 384). The Court opened its ruling by saying, “The question here is a narrow one. When an agency considers increasing a property-related fee, must a fee payor challenging the method of fee allocation first exhaust ‘administrative remedies’ by participating in a Proposition 218 hearing that addresses only a proposed rate increase? The answer is no.” In other words, a ratepayer could challenge a local agency’s fees or charges regardless of whether or not they raised issues during the local agency’s ratemaking process. In other contexts outside of Proposition 218, claimants must exhaust administrative remedies before pursuing judicial remedies.

California Courts of Appeal have recently reached different conclusions on the permissibility of tiered rates:

- In *Coziahr v. Otay Water Dist.* (2024) (103 Cal. App. 5th 785), the court found that Otay Water District’s tiered rates violated Proposition 218 because the district could not demonstrate that its tiered rates were proportional to the cost of service for each parcel;
- In *Patz v. City of San Diego* (2025) (113 Cal. App. 5th 225), the court struck down the City of San Diego’s tiered rates because the city failed to show that its tiered water rates complied with Proposition 218’s proportionality requirements due in part to the city’s inability to present evidence supporting its claims about the source of supply and peak demand; and
- In *Dreher v. Los Angeles Dept. of Water & Power* (2024) (116 Cal. App. 5th 977), the court upheld the city’s tiered based rate structure citing that Proposition 218 “...requires proportionality, not exactness, and does not require the City to trace the flow of water from each source of supply to each parcel, molecule by molecule.” On March 11, 2026, the California Supreme Court granted review of the *Dreher* case.

To ensure that water agencies can continue to impose tiered rates, the Association of California Water Agencies wants to codify the *Dreher* decision.

### **Proposed Law**

Assembly Bill 2180 allows local agencies, for the purpose of calculating property-related fees and charges to comply with Proposition 218, to demonstrate the proportional cost of service to the parcel with any method that reasonably allocates the cost of providing service to all parcels. Local agencies must substantiate the allocation with historic, existing, estimated, or projected data that reasonably captures the cost of the service provided.

When a local agency imposes a fee or charge for water or sewer service, the agency is not required to provide an exact measure of the cost of the service at each parcel, and AB 2180 allows a local agency to impose uniform or tiered rates defined based on common characteristics indicative of likely water or sewer use. When imposing tiered rates for water, a local agency can substantiate the proportional cost of the service within each tier by using any reasonable basis for allocating costs to the tier, including:

- The cost of water from various sources;
- Facilities operation, maintenance, or construction costs;
- Contribution to systemwide peak demand projections; and
- Costs that an agency incurs as a result of the use of water at various tiers or to implement water conservation or demand measures and incremental costs.

AB 2180 provides that state law does not require an agency to have a cost-based, or any other, justification for establishing a tier breakpoint—the point where a customer leaves on tier and enters another. The agency has discretion to determine the costs allocated to each tier, provided that it does not exceed the proportional cost of service reasonably allocated to parcels subject to that tier.

AB 2180 states that it does not apply to water and sewer connection fees and capacity charges.

### **Comments**

1. Purpose of the bill. According to the author, “AB 2180 would amend the Proposition 218 Omnibus Implementation Act to provide clarity and consistency for water agencies in setting proportional rates that comply with Proposition 218. The bill would provide a practical framework consistent with industry best practices for establishing tiered water rates that allocate costs proportionally to usage, while meeting constitutional requirements. AB 2180 ensures that water rates remain fair, proportional, and legally sound, while giving agencies practical tools to fund critical operations and improvements.”

2. Let the dust settle. Multiple courts have reached different conclusions about the permissibility of tiered rates in recent years. In both *Coziahr* and *Patz*, the courts sided with the plaintiffs’ claims that local agencies needed to more closely account for the tiered water rates charged to specific parcels. On the other hand, *Dreher* sided with the local agencies that tiered water rates needed to be proportional but did not need account for every molecule of water delivered to a specific parcel. AB 2180 codifies the *Dreher* decision favored by local agencies with the goal of blessing tiered rates and sending a signal to the Supreme Court that this is how the Legislature

believes Proposition 218 should be implemented. While AB 2180 would allow local agencies statutory certainty to continue to impose tiered rates until such a decision is made, ultimately the California Supreme Court’s decision will determine the appropriate reading of the California Constitution.

3. Enough is enough? In response to this litigation, the Legislature has sought to limit the types of litigation that can be brought forward to challenge water rates:

- In 2021, the Legislature enacted SB 323 (Caballero), which required local agencies to include a statement that water and sewer rates have a 120-day statute of limitations in any written notice of a rate increase, clarify that the 120-day period doesn’t apply to billing errors or similar incorrect charges, and provide that the 120-day period commences after final action on or the effective date of the rate increase, whichever is later;
- AB 2257 (Wilson, 2024) provides that, if a local agency complies with specified exhaustion of remedies procedures for Proposition 218 fees, then a person or entity that has not timely submitted to that local agency a written objection, as specified, is prohibited from bringing a judicial action or proceeding alleging noncompliance with those constitutional provisions and limits a record of proceedings in court to containing specified documents, except as specified; and
- SB 1072 (Padilla, 2024) provides that, if a court determines that a fee or charge for a property-related service violates Proposition 218, then the local agency must credit that amount against the cost of providing the property related service.

These pieces of legislation limit the ability of the public to challenge rates, and receive refunds, under AB 2180’s framework. While the Legislature has attempted these other avenues affecting the public’s ability to challenge rates, or limit the amount they can receive from a successful challenge, amending the Constitution may be the only way to successfully avoid future litigation risk.

### **Assembly Actions**

Assembly Local Government Committee:	7-2
Assembly Floor:	46-18

### **Support and Opposition** (6/5/2026)

Support: Association of California Water Agencies (ACWA) (Sponsor)  
 Bear Valley Water District  
 Bella Vista Water District  
 Burbank Water and Power  
 Calaveras County Water District  
 California Coastkeeper Alliance  
 California Council for Environmental & Economic Balance (CCEEB)  
 California Municipal Utilities Association (CMUA)  
 California Special Districts Association  
 California State Association of Counties (CSAC)  
 California Water Efficiency Partnership  
 Calleguas Municipal Water District  
 Camrosa Water District

City of Roseville  
City of Sacramento  
City of Santa Rosa  
City of Thousand Oaks  
City of Ventura  
Clean Water Action  
Climate Action California's Decarbonization Team  
Coachella Valley Water District  
Coastside County Water District  
Contra Costa Water District  
Crescenta Valley Water District  
Crestline-lake Arrowhead Water Agency  
Cucamonga Valley Water District  
Defenders of Wildlife  
Desert Water Agency  
East Bay Municipal Utility District  
East Valley Water District  
Eastern Municipal Water District  
El Dorado Irrigation District  
El Toro Water District  
Elk Grove Water District  
Elsinore Valley Municipal Water District  
Georgetown Divide Public Utility District  
Helix Water District  
Imperial Irrigation District  
Irvine Ranch Water District  
Jurupa Community Services District  
Kings River Conservation District  
Kings River Water Association  
Laguna Beach County Water District  
Las Virgenes Municipal Water District  
League of California Cities  
Los Angeles County Sanitation Districts  
Marin Water  
Marina Coast Water District  
Mckinleyville Community Services District  
Mcmullin Area Groundwater Sustainability Agency  
Mendocino County Russian River Flood Control & Water Conservation  
Mission Springs Water District  
Monte Vista Water District  
Montecito Water District  
Monterey County Water Resources Agency  
Monterey Peninsula Water Management District  
Mountain Counties Water Resources Association  
North Marin Water District  
Olivenhain Municipal Water District  
Otay Water District  
Padre Dam Municipal Water District  
Palmdale Water District  
Paradise Irrigation District

Pico Water District  
Rainbow Municipal Water District  
Rancho California Water District  
Regional Water Authority  
Rincon Del Diablo Municipal Water District  
Rio Linda Elverta Community Water District  
Rowland Water District  
Rural County Representatives of California  
San Diego County Water Authority  
San Francisco Public Utilities Commission  
San Juan Water District  
Santa Clarita Valley Water Agency  
Santa Fe Irrigation District  
Santa Margarita Water District  
South Tahoe Public Utility District  
Stinson Beach County Water District  
Stockton East Water District  
Tahoe City Public Utility District  
Tehachapi-cummings County Water District  
Three Valleys Municipal Water District  
Town of Hillsborough  
Trabuco Canyon Water District  
Tri-county Water Authority  
Union Public Utility District  
Valley Center Municipal Water District  
Valley Sanitary District  
Valley Water  
Vista Irrigation District  
Walnut Valley Water District  
West Valley Water District  
Western Municipal Water District  
Yorba Linda Water District

Opposition: California Apartment Association  
California Association of Realtors  
California Business Properties Association  
California Taxpayers Association  
Howard Jarvis Taxpayers Association (HJTA)

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