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THIRD READING

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Bill No: AB 2180  
Author: Ward (D), et al.  
Amended: 5/22/26 in Senate  
Vote: 21

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SENATE LOCAL GOVERNMENT COMMITTEE: 5-2, 6/10/26  
AYES: Durazo, Arreguín, Ashby, Cervantes, Laird  
NOES: Choi, Seyarto

ASSEMBLY FLOOR: 46-18, 4/9/26 - See last page for vote

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**SUBJECT:** Local government: Proposition 218 Omnibus Implementation Act:  
proportional cost of service

**SOURCE:** Association of California Water Agencies

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**DIGEST:** This bill 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.

**ANALYSIS:**

Existing law:

- 1) Imposes constitutional limits on local officials' ability to impose, increase, and extend fees, including property-related fees (Proposition 218, 1996).
- 2) Defines 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.
- 3) Specifies definitions and procedures related to Proposition 218 in the Proposition 218 Omnibus Implementation Act (SB 919, Rainey, Chapter 38, Statutes of 1997). The Proposition 218 Omnibus Implementation Act requires

local officials to, before imposing a new property related fee or increase an existing one:

- a) Identify the parcels to be charged.
  - b) Calculate the fee for each parcel.
  - c) Notify the parcels' owners in writing about the fees and the hearing.
  - d) Hold a public hearing to consider and count protests.
  - e) Abandon the fees if a majority of the parcels' owners protest.
- 4) Requires new or increased property-related fees to:
- a) Be less than the proportional cost of service to each parcel.
  - b) Receive approval by a majority-vote of the affected property owners, two-thirds registered voter approval, or weighted ballot approval by the affected property owners.
- 5) Exempts property-related fees for water, sewer, and refuse collection from the voter approval requirements of Proposition 218

This bill:

- 1) 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.
- 2) Provides that 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.
- 3) Allows a local agency to impose uniform or tiered rates defined based on common characteristics indicative of likely water or sewer use.
- 4) Allows, when imposing tiered rates for water, a local agency to substantiate the proportional cost of the service within each tier by using any reasonable basis for allocating costs to the tier, including:

- a) The cost of water from various sources;
  - b) Facilities operation, maintenance, or construction costs;
  - c) Contribution to systemwide peak demand projections; and
  - d) 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.
- 5) 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.
- 6) States that it does not apply to water and sewer connection fees and capacity charges.

## **Background**

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.

## 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.

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

**SUPPORT:** (Verified 6/11/26)

Association of California Water Agencies (Source)

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

California Municipal Utilities Association

California Special Districts Association

California State Association of Counties

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:** (Verified 6/11/26)

California Apartment Association  
California Association of Realtors  
California Business Properties Association

California Taxpayers Association  
Howard Jarvis Taxpayers Association

ASSEMBLY FLOOR: 46-18, 4/9/26

AYES: Aguiar-Curry, Ahrens, Alvarez, Bains, Bennett, Berman, Boerner, Bonta, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Pacheco, Pellerin, Petrie-Norris, Quirk-Silva, Ransom, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Stefani, Ward, Wicks, Wilson, Zbur, Rivas

NOES: Alanis, Castillo, Chen, Davies, DeMaio, Dixon, Ellis, Gallagher, Hadwick, Hoover, Johnson, Lackey, Macedo, Patterson, Sanchez, Ta, Tangipa, Valencia

NO VOTE RECORDED: Addis, Arambula, Ávila Farías, Bauer-Kahan, Bryan, Flora, Gipson, Jeff Gonzalez, Ortega, Papan, Patel, Ramos, Celeste Rodriguez, Michelle Rodriguez, Soria, Wallis

Prepared by: Jonathan Peterson / L. GOV. / (916) 651-4119  
6/12/26 12:50:08

\*\*\*\* END \*\*\*\*