CONCURRENCE IN SENATE AMENDMENTS
AB 2180 (Ward)
As Amended May 22, 2026
Majority vote

SUMMARY

Authorizes a local government to demonstrate the proportional cost of the service attributable to the parcel by any method that reasonably allocates the ascertainable cost of providing service to all parcels for any fee or charge adopted under Article XIII D of the Constitution, as specified.

Senate Amendments
Provide that this bill shall not apply to fees for water connections or sewer connections, or capacity charges, subject to existing law.

COMMENTS

1) *Proposition 218.* The California Constitution requires voter approval for taxes and many other fees and charges. Proposition 218 (1996) added Article XIIID to the California Constitution, which imposed voter approval requirements for most "property-related fees"—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 or charge for a property-related service.

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

   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.

   New, increased, or extended property-related fees generally require voter approval by one of the following: a majority-vote of the affected property owners; two-thirds registered voter approval; or weighted ballot approval by the affected property owners.

   Fees or charges for property related services cannot exceed the proportional cost of providing service to the parcel and must be used only for the purposes for which they were collected. Property-related fees must also only fund services actually used by or immediately available to the property owner, not based on potential or future use. Finally, Proposition 218 prohibits local governments from imposing property-related fees or charges for general governmental services—including fire, police, ambulance, or library services—if the service is available to the public at large in substantially the same manner as it is to property owners.

Water, sewer, and refuse collection services are exempt from Proposition 218's voter approval requirements, but must meet all other procedural and substantive requirements in Proposition 218, including the requirement to hold a protest hearing not less than 45 days after mailing a notice of new or increased rates to affected property owners. If a majority protest the fee, based on the proportional obligation of the affected property, then the local agency cannot impose the fee.

2) *Proposition 218 Omnibus Implementation Act.* Proposition 218 is a complex statute and has been the subject of many court cases and rulings that often conflict with one another. In the past, the Legislature has weighed in to provide clarity on how to apply Proposition 218's provisions and statutorily reinforced court rulings that align with the Legislature's priorities. In particular, immediately after the passage of Proposition 218, 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), Chapter 38, Statutes of 1997]. More recently, the Legislature amended the Proposition 218 Implementation Act to define "water" in a manner that is consistent with an appellate court decision that provided greater flexibility to water agencies when setting rates [AB 2403 (Rendon) Chapter 78, Statutes of 2014]. SB 231 (Hertzberg) Chapter 536, Statutes of 2017, defined "sewer" for the purposes of the Proposition 218 Omnibus Implementation Act, and SB 1386 (Moorlach), Chapter 240, Statutes of 2020, provided that fire hydrants are a part of water service for the purposes of Proposition 218. Lastly, AB 1827 (Papan), Chapter 359, Statutes of 2024, provided that fees or charges for property-related water service imposed or increased pursuant to the California Constitution may include the incrementally higher costs of water service.

3) *Water Rates.* Setting water rates can be a complex endeavor, and local agencies impose water rates in many different ways. Since the voters approved Proposition 218's requirements, how public agency water providers impose these fees is a common debate. One increasingly common form of rates are tiered rates. According to the Public Policy Institute of California (PPIC) report *Paying for Water in California*, "By the mid-2000s, over half of the state's urban water utilities used tiered rates, and the practice has been growing as more utilities aim to reduce per capita urban water use, still high in California relative to comparable economies with similar climates, such as Australia, Spain, and Israel. The legal issue is whether these rate structures are consistent with Proposition 218's requirement that fees be proportional to the cost of service. This accounting requirement turns out to be more complex than voters may have anticipated when they approved this constitutional reform. The courts have ruled that agencies cannot set different price tiers for different customer categories unless the rate differentials are based on differences in costs of service among categories. This ruling is beneficial insofar as it discourages the artificial subsidization of water use."

   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.

4) *Recent Legal Challenges.* California Courts of Appeal have recently reached different conclusions on the permissibility of tiered rates. In *Coziahr v. Otay Water District* (2024), the court found that Otay's evidence did not withstand independent review and that the trial court properly applied the principles from previous cases. Additionally, as noted by the California Coastkeeper Alliance, supporters of this bill, "In *Patz v. City of San Diego* (2025), the Court imposed a rigid interpretation of Proposition 218's proportionality requirement, holding the City to a high level of precision in calculating water rates and finding that its tiered rate structure failed to meet certain requirements. By contrast, the Court in *Dreher v. City of Los Angeles Department of Water and Power* (2025) upheld budget-based tiered rates based on customers' water usage and rejected the Patz Court's interpretation of the proportionality requirement." On March 11, the California Supreme Court granted review of the *Dreher* case.

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."

Arguments in Support
According to the Association of California Water Agencies, the sponsors of this bill, "AB 2180 would create clear, consistent standards for water agencies statewide, helping them to confidently develop constitutionally-sound rates and continue to deliver safe and reliable water to their communities. Recent appellate court decisions, like those in *Coziahr v. Otay Water District* (2024) and *Patz v. City of San Diego* (2025), impose rigid interpretations of Proposition 218 that require unfeasible levels of precision at the expense of practical administration of water rates. For example, under these court decisions, water agencies could be forced to trace the flow of water from each source of supply to each parcel, molecule by molecule, even when water supplies are commingled in the distribution system.

"Conversely, the court's December 8, 2025 decision in *Dreher v. City of Los Angeles Department of Water and Power* (2025) supports a framework that is not only consistent with Proposition 218 but also aligns with longstanding industry practice. AB 2180 respects the wishes of voters by maintaining a rigorous standard of justifying water rates while giving water agencies the flexibility to set rates in a way that reflects the true cost of service and ensures that high-volume water users pay for the infrastructure necessary to provide reliable water supplies during droughts and times of high demand.

"Public water and sewer agencies provide essential government services for the benefit of communities, agriculture, industries, and the environment. Collectively, these agencies are responsible for ensuring a consistent and reliable water supply, safeguarding the quality of drinking water, planning, constructing, and maintaining critical infrastructure, and much more. With climate change presenting unprecedented challenges, these agencies also must adapt and enhance aging infrastructure to mitigate the impacts of increasingly frequent and severe climate-related events. Public agencies throughout California are making generational investments to build 21st Century infrastructure for a 21st Century climate while making every effort to keep water affordable.

"Without legislative clarification, water agencies and customers will both continue to face costly and unnecessary legal disputes. The revenue necessary for water agencies to fulfill their essential government functions comes almost entirely from service rates and assessments subject to Proposition 218. The recent rise in litigation has made it increasingly difficult for water agencies to have the financial stability they need to provide reliable, safe, and affordable water to Californians."

Arguments in Opposition
According to the California Taxpayers Association, the California Apartment Association, the California Association of Realtors, and the California Business Properties Association, "…AB 2180 would result in higher costs to taxpayers through increased utility charges, while reducing accountability for agencies. "

"Increased Utility Charges. AB 2180 risks accelerating utility prices by allowing the use of systemwide projections and peak-demand factors in determining rates, which are at high risk of uncertainty and overestimation. Ratepayers would be subject to higher prices that exceed actual service costs. "

"Additionally, allowing agencies to rely on broad estimates, projected data, and undefined "reasonable basis" increases the risk that taxpayers will shoulder the burden of misallocated or inflated costs. By loosening the strict proportionality requirements, AB 2180 allows higher tiers to bear greater costs based on generalized characteristics. As a result, agencies may assign inflated infrastructure or supply costs to certain customer groups even when unrelated to actual usage patterns. "

"Reduced Accountability. Proposition 218 was approved by California voters to give the people the right to vote on taxes. The 1996 voter guide makes it clear that affordability was at the heart of the reason voters supported Proposition 218: "

'Here are some examples of why fees and assessments and other non-voted taxes are so unfair: The poor pay the same assessments as the rich. An elderly widow pays exactly the same on her modest home as a tycoon with a mansion. ... Non-voted taxes on electricity, gas, water and telephone services hit renters and homeowners hard.'

"AB 2180 erodes these safeguards, making utility service less affordable by reducing rate-setting standards that provide meaningful public oversight and transparency. "

"While Proposition 218 establishes clear standards to identify unlawful rate hikes, the broad methodologies and decreased precision requirements of AB 2180 make it more challenging for taxpayers to demonstrate an agency's noncompliance. This weakens an important mechanism to keep agencies accountable, allowing excessive and expansive charges to go unchallenged."

FISCAL COMMENTS

None.

VOTES:

ASM LOCAL GOVERNMENT: 7-2-1
YES: Carrillo, Pacheco, Ransom, Blanca Rubio, Stefani, Ward, Wilson
NO: Ta, Johnson
ABS, ABST OR NV: Ramos

ASSEMBLY FLOOR: 46-18-16
YES: 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
NO: Alanis, Castillo, Chen, Davies, DeMaio, Dixon, Ellis, Gallagher, Hadwick, Hoover, Johnson, Lackey, Macedo, Patterson, Sanchez, Ta, Tangipa, Valencia
ABS, ABST OR NV: Addis, Arambula, Ávila Farías, Bauer-Kahan, Bryan, Flora, Gipson, Jeff Gonzalez, Ortega, Papan, Patel, Ramos, Celeste Rodriguez, Michelle Rodriguez, Soria, Wallis

SENATE FLOOR: 30-10-0
YES: Allen, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Cortese, Durazo, Gonzalez, Grayson, Hurtado, Laird, Limón, McGuire, McNerney, Menjivar, Padilla, Pérez, Reyes, Richardson, Rubio, Smallwood-Cuevas, Stern, Umberg, Wahab, Weber Pierson, Wiener
NO: Alvarado-Gil, Choi, Dahle, Grove, Jones, Niello, Ochoa Bogh, Seyarto, Strickland, Valladares

UPDATED

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CONSULTANT: Jimmy MacDonald / L. GOV. / (916) 319-3958 FN: 0003769