
SENATE COMMITTEE ON LOCAL GOVERNMENT

Senator María Elena Durazo, Chair

2025 - 2026 Regular

Bill No: AB 2728
Author: Soria
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Fiscal: No
Consultant: Peterson

GROUNDWATER: DE MINIMIS EXTRACTORS: FEES: EXEMPTION

Allows a local government, including a groundwater sustainability agency, that imposes a fee, levy, charge, or exaction for groundwater monitoring or management to exempt de minimis extractors.

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.

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.

In 2010, California voters approved Proposition 26, which tightened up Proposition 218's provisions. Among other things, it required all fees and charges that are not taxes to allocate costs to a payor in a "fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity."

Sustainable Groundwater Management Act. In response to a multi-year drought, the Legislature enacted the Sustainable Groundwater Management Act (SGMA) in 2014. Composed of three bills—AB 1739 (Dickinson), SB 1168 (Pavley) and SB 1319 (Pavley)—SGMA comprehensively reformed California's groundwater laws. Among other provisions, the Act

directs the Department of Water Resources (DWR) to categorize the state’s groundwater basins into high, medium, low, and very low priorities, based on factors such as the population overlying the basin, number of wells in the basin, and overlying irrigated acreage. DWR must also identify basins subject to critical overdraft—where more water is consistently being removed than replaced.

Under SGMA, a groundwater sustainability agency (GSA) must manage basins designated as high or medium priority. That agency must develop a groundwater sustainability plan to ensure that by 2040, the basin is in a sustainable condition—there can be no “undesirable results” (such as land sinking) from use of the basin. If a basin does not have a GSA or the agency fails to adopt or implement a plan, the State Water Resources Control Board may designate the basin as “probationary” and can develop its own plan to achieve sustainability for the basin. SGMA allows a groundwater sustainability agency to impose fees, including permit fees and fees on groundwater extraction, to fund the costs of a groundwater sustainability program. SGMA prohibits a groundwater sustainability agency from imposing a fee on de minimis extractors unless the agency has regulated the de minimis extractors. De minimis extractors are people who extract, for domestic purposes, two acre-feet or less of water per year.

To ensure that local agencies can simultaneously comply with SGMA and Propositions 26 and 218, the author wants to allow local agencies to exempt de minimis extractors from groundwater monitoring charges.

Proposed Law

Assembly Bill 2728 allows a local government, including a groundwater sustainability agency, that imposes a fee, levy, charge, or exaction for groundwater monitoring or management to exempt de minimis extractors from paying that fee, levy, charge, or exaction, if the local government makes both the following findings:

- The groundwater monitoring or management activities the fee funds directly benefits parties other than de minimis extractors; and
- Any benefits de minimis extractors receive from the groundwater monitoring or management are incidental to the parties paying the fee, levy, charge, or exaction.

AB 2728 declares that these provisions are declaratory of existing law and do not limit the ability of a local government to establish other constitutionally-permissible exemptions.

AB 2728 makes conforming changes to SGMA to ensure that local governments have the authority to exempt de minimis extractors.

Comments

1. **Purpose of the bill.** According to the author, “In 2014, the California legislature enacted the Sustainable Groundwater Management Act (SGMA) for the purpose of achieving and maintaining sustainability in the State’s groundwater basins. SGMA implementation throughout much of the State is governed by Groundwater Sustainability Agencies (GSAs), working in close coordination with other GSAs, local governments, and the public, to develop and execute Groundwater Sustainability Plans that include several elements necessary to sustainably manage groundwater basins including groundwater monitoring. To fund this monitoring, some local

governments have established regulatory fees under Proposition 26. However, this has created situations where de minimis extractors, those extracting small amounts of groundwater for domestic use, bear a disproportionately large amount of monitoring fees. AB 2728 resolves this disparity by allowing local governments to exempt de minimis extractors.”

2. Between a rock and a hard place. SGMA allows a groundwater sustainability agency to impose fees, including permit fees and fees on groundwater extraction, but prohibits a groundwater sustainability agency from imposing a fee on de minimis extractors unless the agency has regulated de minimis extractors. Agencies like Monterey County have not regulated de minimis extractors because their impact on groundwater supplies is by definition minimal, so SGMA does not allow agencies to charge de minimis extractors for the groundwater monitoring program. However, Proposition 26 requires all fees and charges that are not taxes, including those regulating groundwater, to allocate costs to a payor in a “fair or reasonable relationship to the payor’s burdens on, or benefits received from, the governmental activity.” Arguably if a local agency exempts de minimis extractors from paying groundwater monitoring fees so that it complies with SGMA, then it could be charging other extractors more than the burden they place on groundwater extraction. In other words, complying with SGMA could violate Proposition 26, but complying with Proposition 26 could violate SGMA. To avoid this stalemate, AB 2728 allows a local agency to exempt de minimis extractors from groundwater monitoring charges if the agency makes findings demonstrating that the ancillary benefits for de minimis extractors are incidental to the parties paying the fee.

3. Gut and amend. As introduced and approved by the Assembly, AB 2728 contained provisions enacting the Open and Transparent Water Data Act. Amendments taken in the Senate deleted the initial contents of AB 2728 and inserted the current language relating to groundwater extraction fees and charges.

4. Coming and going. The Senate Rules Committee has ordered a double referral of AB 2728: first to the Committee on Local Government to hear issues related to local government powers, and second to the Committee on Natural Resources and Water.

Assembly Actions

Prior Assembly votes not relevant to the current version of the bill.

Support and Opposition (6/19/2026)

Support: California State Association of Counties (CSAC)
Rural County Representatives of California (RCRC)
One individual

Opposition: None Submitted

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