
SENATE COMMITTEE ON NATURAL RESOURCES AND WATER

Senator Josh Becker, Chair

2025 - 2026 Regular

Bill No: AB 2728 **Hearing Date:** July 1, 2026
Author: Soria
Version: June 11, 2026 Amended
Urgency: No **Fiscal:** No
Consultant: Genevieve Wong

Subject: Groundwater: de minimis extractors: fees: exemption

SUMMARY

This bill would authorize a local government that imposes a fee, levy, charge, or exaction for groundwater monitoring or management to exempt de minimis extractors from paying the fee, levy, charge, or exaction if certain findings are made.

BACKGROUND AND EXISTING LAW

Sustainable Groundwater Management Act (SGMA). In 2014, to address overdraft and other adverse effects of excessive pumping, the Legislature passed SGMA, a statewide framework for groundwater management with the goal of managing and using groundwater in a manner that can be maintained during the planning and implementation horizon without causing undesirable results.

Under SGMA, a local agency or combination of local agencies overlying a groundwater basin may become a groundwater sustainability agency (GSA) for that basin. A GSA has broad management authority of the groundwater basin or basins under their jurisdiction, including defining the basin's or basins' sustainable yield, limiting groundwater extraction, and imposing fees. GSAs are required to consider the interests of all beneficial uses and users of groundwater, including, but not limited to, holders of overlying groundwater rights, municipal well operators, public water systems, local land use planning agencies, environmental users of groundwater, surface water uses, the federal government, California Native American tribes, and disadvantaged communities. GSAs are authorized to perform any act necessary to carry out the purposes of SGMA, including adopting rules, regulations, and ordinances and developing the GSP.

SGMA requires GSAs in medium- and high-priority groundwater basins, which includes 21 critically overdrafted basins, to develop and implement GSPs. GSAs may customize their GSPs to their regional economic and environmental circumstances.

SGMA authorizes GSAs to impose fees, including, but not limited to, permit fees on groundwater extraction or other regulated activity, to fund the costs of its groundwater sustainability program, but prohibits a GSA from imposing a fee on de minimis extractors unless the GSA has regulated the de minimis extractors (Water Code (WAT) §10730). De minimis extractors are people who extract, for domestic purposes, two acre-feet or less of water per year.

Proposition 218. 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 parcel 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."

PROPOSED LAW

This bill would:

- 1) Authorize a local government, including a GSA, that imposes a fee, levy, charge, or extraction for groundwater monitoring or management to exempt de minimis extractors from paying that fee, levy, charge, or extraction, if the local government makes both of the following findings:
 - a) The groundwater monitoring or management activities the fee funds directly benefits parties other than de minimis extractors; and
 - b) Any benefits de minimis extractors receive from the groundwater monitoring or management are incidental to the parties paying the fee, levy, charge, or extraction.
- 2) Declare that these provisions are declaratory of existing law and do not limit the ability of a local government to establish other constitutionally-permissible exemptions.

- 3) Make conforming changes to SGMA to ensure that local governments have the authority to exempt de minimis extractors.

ARGUMENTS IN SUPPORT

According to the author, “[i]n 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, despite normally being exempted under SGMA. AB 2728 resolves this disparity by allowing local governments to exempt de minimis extractors consistent with the original exemption provided under SGMA.”

ARGUMENTS IN OPPOSITION

None received

COMMENTS

This bill is double referred. This bill has been referred to both the Senate Local Government Committee and this Committee for hearing. This Committee is the second committee of referral. This bill was heard in the Senate Local Government Committee on June 23, 2026, and passed out with a vote of 7-0. Elements of this bill under the jurisdiction of the Senate Local Government Committee are included here for completeness and context only.

Catch 22. As discussed in the Senate Local Government Committee analysis of this bill, “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.”

AB 2728 addresses this conundrum by allowing local agencies to exempt de minimis extractors from such fees, levies, charges, or exactions for groundwater management if certain findings are made, including that any benefits received by the de minimis extractor are incidental and do not result in any additional costs to those who are imposed the fee, levy, charge, or exaction.

SUGGESTED AMENDMENTS: none

SUPPORT

California State Association of Counties (CSAC)
County of Monterey
Rural County Representatives of California (RCRC)
Salinas Valley Basin Groundwater Sustainability Agency

OPPOSITION

None received

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