Office of Senate Floor Analyses
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CONSENT

Bill No: AB 2728
Author: Soria (D)
Amended: 6/11/26 in Senate
Vote: 21

SENATE LOCAL GOVERNMENT COMMITTEE: 7-0, 6/23/26
AYES: Durazo, Choi, Arreguín, Ashby, Cervantes, Laird, Seyarto

SENATE NATURAL RES. & WATER COMMITTEE: 7-0, 7/1/26
AYES: Becker, Seyarto, Allen, Cabaldon, Grove, Laird, Stern

Prior Assembly votes not relevant.

SUBJECT: Groundwater: de minimis extractors: fees: exemption

SOURCE: County of Monterey

DIGEST: This bill 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.

ANALYSIS:

Existing law grants local agencies the authority to impose various fees, charges, and taxes to pay for public services.

This bill:

1) 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:

   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 exaction.

2) 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.

3) Makes conforming changes to the Sustainable Groundwater Management Act (SGMA) to ensure that local governments have the authority to exempt de minimis extractors.

Background

Local taxes, fees, and charges. Prior to 1978, local agencies could enact taxes by ordinance. Proposition 13 (1978) amended the Constitution to require a 2/3 vote of the electorate to enact a local special tax. Proposition 62 (1986) prohibited local agencies from imposing general taxes without majority approval of local voters, and clarified the 2/3 vote necessary to impose special taxes. Proposition 218 (1996) extended those vote thresholds to charter cities and required local agencies' to obtain voter approval to levy new assessments, fees, and taxes, which was subsequently limited by Proposition 26 (2010). Local agencies impose taxes, fees, and charges to finance a variety of public services. For example, state law requires local agencies to provide solid waste handling services, or contract with another local agency or solid waste enterprise. If the local agency provides the service, they charge customers directly. Most jurisdictions in the state operate with some form of "franchise," or contract, that limits solid waste hauling within the jurisdiction to one or more specified companies. Under these agreements, the local agency charges the franchisee for the benefit of operating within the public right-of-way. The franchisee then charges customers for providing waste hauling services. Many local agencies include the costs to cover the wear and tear on the roads from the heavy waste hauling trucks in their fees. A typical car weighs roughly 4,400 pounds, while a loaded garbage truck can weigh as much as 60,000 pounds.

Sustainable Groundwater Management Act. In response to a multi-year drought, the Legislature enacted the SGMA in 2014. Composed of three bills—AB 1739 (Dickinson, Chapter 347, Statutes of 2014), SB 1168 (Pavley, Chapter 346, Statutes of 2014) and SB 1319 (Pavley, Chapter 348, Statutes of 2014)—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.

Comments

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."

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.

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

SUPPORT: (Verified 7/2/26)

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

OPPOSITION: (Verified 7/2/26)

None received

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7/30/26 14:49:29

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