CONCURRENCE IN SENATE AMENDMENTS
AB 2728 (Soria)
As Amended June 11, 2026
Majority vote

SUMMARY

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

Senate Amendments

1) Delete the contents of the bill.

2) Specify that a local government, including, but not limited to, a GSA, that imposes a fee, levy, charge, or exaction for groundwater monitoring or management may exempt de minimis extractors from paying the fee, levy, charge, or exaction upon making both of the following findings:

   a) The groundwater monitoring or management activities for which the fee, levy, charge, or exaction is imposed directly benefit parties other than de minimis extractors.

   b) Any benefits received by de minimis extractors as a consequence of providing the groundwater monitoring or management activities occur incidentally and without additional cost to the parties upon whom the fee, levy, charge, or exaction is imposed.

3) Define "de minimis extractor" to have the same meaning in existing law as a person who extracts, for domestic purposes, two acre-feet or less per year.

4) Specify that 2) and 3), above, is declaratory of existing law, and does not limit the ability of a local government to establish other exemptions from any fee, levy, charge, or exaction when otherwise permissible under specified constitutional provisions.

5) Make numerous technical and conforming changes.

COMMENTS

1) *Propositions 218 & 26.* 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. 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].

   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."

2) *Sustainable Groundwater Management Act (SGMA).* Groundwater is water found beneath the land surface in pores and fractures in materials such as rock, gravel, or sand. Underground areas where groundwater flows naturally out of rock materials or where groundwater can be removed by pumping are referred to as aquifers. According to the Department of Water Resources (DWR), groundwater provides nearly 40% of California's water supply in an average year and 60% in drought years.

   For much of California's history, there was no statewide mandate for the management of groundwater. This led to significant over-pumping (or "overdraft") of groundwater in many regions of the state that resulted in land subsidence (or sinking) that compromised infrastructure, dewatered rivers and streams, led to seawater intrusion in coastal areas, and dried out domestic and agricultural groundwater wells, among other adverse impacts. In the midst of the 2012-16 drought, California's most severe on record, the Legislature passed SGMA to reverse the adverse impacts caused by groundwater overdraft. Passed in 2014, SGMA is composed of a three-bill legislative package, including 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.

   SB 1168 required DWR to categorize each basin as "high", "medium", "low", or "very low" priority based on specified criteria including population, rate of population growth, and number of wells. DWR identified 21 basins as "critically overdrafted".

   SGMA allows a GSA to impose fees, including permit fees and fees on groundwater extraction, to fund the costs of a groundwater sustainability program. SGMA prohibits a GSA 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.

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."

Arguments in Support
According to Monterey County, "The Monterey County Water Resources Agency (MCWRA) has almost 80 years of experience monitoring groundwater conditions in the Salinas Valley. In 2024, the SVBGSA [Salinas Valley Basin Groundwater Sustainability Agency] and the MCWRA agreed that it would be better to leverage MCWRA's groundwater monitoring

expertise and historical, long-term trend data rather than creating a duplicative program, with additional costs. The partnership established one cohesive Groundwater Monitoring Program (GMP) to comply with the SGMA-driven monitoring requirements, while ensuring efficiency and transparency to produce accurate, timely, and reliable groundwater information. However, it also separated the legal context under which cost recovery fees would be established.

"To identify and recover the reasonable costs of implementing the GMP, the MCWRA initiated a nexus study to establish a regulatory fee under Proposition 26 as a stand-alone program. The GMP per-well cost allocation was proposed for practical reasons. First, not all landowners are well owners. Second, the level of effort necessary to implement the GMP is not dependent upon how much water is extracted, it is dependent upon the number of wells being monitored.

"Proposition 26 does not allow the MCWRA, as a non-GSA, to charge one group of well owners more to offset the costs of others. While legally defensible, the unintended consequence is regressive: a household drawing two acre-feet per year for domestic use pays essentially the same as an extractor pumping a thousand acre-feet. The financial disparity can be significant, especially for lower-income rural households for whom a flat per-well charge is a material cost.

"This bill is a common sense technical fix that falls well within the original intentions of SGMA, that will provide needed reassurance to private well owners that they will not be subjected to fees never meant to be applied to them."

Arguments in Opposition
None on file.

FISCAL COMMENTS

None.

VOTES:

ASM WATER, PARKS, AND WILDLIFE: Votes not relevant
YES:

ASM APPROPRIATIONS: Votes not relevant
YES:

ASSEMBLY FLOOR: Votes not relevant
YES:
ABS, ABST OR NV:

UPDATED

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CONSULTANT: Jimmy MacDonald / L. GOV. / (916) 319-3958 FN: 0003383