

Date of Hearing: March 25, 2026

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

AB 2180 (Ward) – As Amended March 11, 2026

SUBJECT: Local government: Proposition 218 Omnibus Implementation Act: proportional cost of service.

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. Specifically, **this bill:**

- 1) Provides that for any fee or charge adopted under Section 6 of Article XIII D of the California Constitution (Proposition 218 of 1996), “the proportional cost of the service attributed to the parcel” may be demonstrated by any method that reasonably allocated the ascertainable cost of providing service to all parcels. The allocation shall be substantiated by historic, existing, estimated, or projected data that reasonably captures the cost of service to be provided.
- 2) Specifies that, notwithstanding 1), above, when imposing a fee or charge for water or sewer service, an agency is not required to provide an exact measure of the cost of the service at each parcel and an agency may impose uniform or tiered rates to parcel or customer classes that are defined based on common characteristics indicative of likely water or sewer use, including, but not limited to, the nature and size of improvements to the parcel, land use, the nature or number of plumbing fixtures, meter size, or peak use characteristics.
- 3) Provides that when imposing a tiered rate for water service, an agency may substantiate the proportional cost of the service within each tier by using any reasonable basis for allocating costs attributed to the tier, including, but not limited to, the following:
 - a) The cost of water from various sources.
 - b) Facilities operation, maintenance, or construction costs.
 - c) Contribution to systemwide peak demand projections.
 - d) Costs that an agency incurs as a result of the use of water at various tiers or to implement water conservation or demand management measures, or incremental costs, as that term is used in existing law.
- 4) Specifies that an agency is not required to have a cost-based, or any other, justification for establishing any tier breakpoint. For purposes of this bill, “tier breakpoint” means the point where a customer leaves one tier and enters another tier.
- 5) Provides that an agency has discretion to determine the costs allocated to each tier, provided that the rate assigned to each tier does not exceed the proportional cost of service reasonably allocated to parcels subject to the tier.

FISCAL EFFECT: None.

COMMENTS:

- 1) **Financing Water Infrastructure.** Local governments in California provide most water related services in the state which include water service, sewer service, flood control, and storm water management. A 2014 Public Policy Institute of California (PPIC) report, *Paying for Water in California*, outlines four sources of funding currently used for water in California: a) Fees, which include water and waste water bills, property assessments or fees, developer or connection fees, and permitting fees; b) Taxes, which include both general and special taxes, including parcel taxes; c) Fines and penalties, which include excessive pumping on groundwater or directly to customers in violation of rationing restrictions during drought emergencies; and, d) Bonds, which include general obligation and revenue bonds. Local agencies frequently point to the series of constitutional reforms, Proposition 13 (1978), Proposition 218 (1996), and Proposition 26 (2010), that have made it increasingly more difficult to generate the necessary revenue to fund the costs of providing water and other essential services.
- 2) **Proposition 218.** The California Constitution requires voter approval for taxes and many other fees and charges. Proposition 218 (1996) added Article XIID 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.

- 3) **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 (Moore) 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.
- 4) **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 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.

- 5) **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.
- 6) **Bill Summary.** This bill makes changes to the Proposition 218 Implementation Act by providing that a local government, for specified fees or charges, may 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, if substantiated with specified information. This bill also provides that an agency is not required to provide an exact measure of the cost of the service at each parcel and that an agency may impose uniform or tiered rates to parcel or customer classes that are defined based on common characteristics indicative of likely water or sewer use. The Association of California Water Agencies is the sponsor of this bill.
- 7) **Author’s Statement.** 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.”
- 8) **Policy Consideration.** Proposition 218 imposes constitutional limitations on property-related fees. As a result, the Legislature is limited in the actions it can take to change how the Proposition works, absent a constitutional amendment. The Legislature can enact statutes to help shape the courts’ interpretations of constitutional provisions, but in the end, the courts will ultimately interpret Proposition 218’s constitutional requirements. Nonetheless, due to recent court decisions that conflict, the issue contemplated in this bill may be suited to legislative intervention. Courts have ruled that tiered water rates can be utilized by water providers; however, how water providers construct their rates consistent with Proposition 218 is not abundantly clear.

Ultimately, if the courts find a conflict between Article XIII D and the provisions of this bill, they will be bound to follow the Constitution, meaning this bill may not have the desired

effect on the litigation at hand. The Committee may wish to consider the need for the bill in light of existing constitutional constraints.

- 9) **Previous Legislation.** 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.

SB 1072 (Padilla), Chapter 323, Statutes of 2024, provided that, if a court determines that a fee or charge for a property-related service violates Proposition 218, then the local agency must credit that amount against the cost of providing the property related service.

SB 323 (Caballero), Chapter 216, Statutes of 2021, established a 120-day statute of limitations for water and sewer rates.

SB 1386 (Moorlach), Chapter 240, Statutes of 2020, provided that fire hydrants are a part of water service for the purposes of Proposition 218.

SB 231 (Hertzberg), Chapter 536, Statutes of 2017, defined "sewer" for the purposes of the Proposition 218 Omnibus Implementation Act.

SB 1298 (Hertzberg) of 2016 would have specified the definition of "sewer" for the purposes of the Proposition 218 Omnibus Implementation Act. SB 1298 died on the inactive file in the Assembly.

AB 1362 (Gordon) of 2015, would have provided a definition for "stormwater" to mean "any system of public improvements, or service intended to provide for the quality, conservation, control, or conveyance of waters that land on or drain across the natural or man-made landscape" in the Proposition 218 Omnibus Implementation Act. AB 1362 would have only become operative if a constitutional amendment was approved by the voters. The introduced version of AB 1362 was subsequently amended into a different issue area to address mosquito and vector control districts.

AB 2403 (Rendon), Chapter 78, Statutes of 2014, expanded the definition of "water" in the Proposition 218 of 1996 Omnibus Implementation Act to mean any system of public improvements intended to provide for the production, storage, supply, treatment, or distribution of water from any source.

SB 919 (Rainey), Chapter 38, Statutes of 1997, enacted the Proposition 218 Omnibus Implementation Act to prescribe specific procedures and parameters for local jurisdictions in complying with Article XIII C and Article XIII D of the California Constitution.

- 10) **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.”

- 11) **Arguments in Opposition.** According to the California Taxpayers Association, the California Association of Realtors, and the California Building Industry 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.”

REGISTERED SUPPORT / OPPOSITION:

Support

Association of California Water Agencies [SPONSOR]
Bear Valley Water District
Bella Vista Water District
Burbank Water and Power
Calaveras County Water District
California Coastkeeper Alliance
California Council for Environmental & Economic Balance
California Municipal Utilities Association
California Special Districts Association
California State Association of Counties
California Water Efficiency Partnership
Camrosa Water District
City of Roseville
City of Ventura
Coachella Valley Water District
Coastside County Water District
Contra Costa Water District
Crescenta Valley Water District
Crestline-Lake Arrowhead Water Agency
Cucamonga Valley Water District
Desert Water Agency
Eastern Municipal Water District
El Dorado Irrigation District
El Toro Water District
Georgetown Divide Public Utility District
Helix Water District
Irvine Ranch Water District
Jurupa Community Services District
Kings River Conservation District
Kings River Water Association
Laguna Beach County Water District

Las Virgenes Municipal Water District
League of California Cities
Los Angeles County Sanitation Districts
Marin Water
Marina Coast Water District
McKinleyville Community Services District
McMullin Area Groundwater Sustainability Agency
Mission Springs Water District
Monte Vista Water District
Monterey County Water Resources Agency
Monterey Peninsula Water Management District
North Marin Water District
Olivenhain Municipal Water District
Otay Water District
Orange County Sanitation District
Padre Dam Municipal Water District
Palmdale Water District
Paradise Irrigation District
Regional Water Authority
Rio Linda Elverta Community Water District
Rowland Water District
San Diego County Water Authority
San Joaquin Valley Water Collaborative Action Program
San Juan Water District
Santa Clarita Valley Water Agency
Santa Fe Irrigation District
South Tahoe Public Utility District
Stockton East Water District
Tahoe City Public Utility District
Tehachapi-Cummings County Water District
Three Valleys Municipal Water District
Tri-County Water Authority
Union Public Utility District
Valley Center Municipal Water District
Vista Irrigation District
Walnut Valley Water District
West Valley Water District
Western Municipal Water District

Opposition

California Association of Realtors
California Building Industry Association
California Taxpayers Association
Howard Jarvis Taxpayers Association

Analysis Prepared by: Jimmy MacDonald / L. GOV. / (916) 319-3958