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Local Government **AB 2180 (Ward)**
Oppose

Vote requirement: 21
Version Date: 05/22/2026

Summary

Allows local agencies, for the purpose of calculating property-related fees and charges to comply with Proposition 218, to demonstrate the proportional cost of service to the parcel with any method that reasonably allocates the cost of providing service to all parcels.

NOTE: *The California Supreme Court has already granted review in Dreher v. City of Los Angeles Department of Water and Power to resolve the very constitutional question addressed by AB 2180—whether tiered water rates satisfy Proposition 218's proportionality requirements. Because the Court is poised to provide a definitive interpretation of Proposition 218's proportionality requirements, legislative intervention is unnecessary and risks undermining the judicial process. The Legislature should allow the Court to resolve the issue before enacting statutory changes that may ultimately prove inconsistent with the Court's ruling.*

Talking Points

Three branches of government exist for a reason. The Legislature enacts laws, but it is ultimately the Judiciary's role to interpret the California Constitution. Here, conflicting appellate court decisions have created uncertainty over the meaning of Proposition 218, and the California Supreme Court is poised to resolve that conflict. Rather than waiting for the Court to provide a definitive constitutional interpretation, AB 2180 effectively endorses one side of the pending litigation and attempts to influence the legal landscape before the judicial process has concluded. Respect for the separation of powers counsels against legislative intervention while the constitutional question is still before the courts.

Vote History

Assembly Floor: 46-18 (04/09/2026)
(NO: All Republicans, except; ABS: Flora, Jeff Gonzalez, Wallis)
Senate Local Government: 5-2 (06/10/2026)
(NO: Choi, Seyarto)

Support & Opposition Received

Support: Association of California Water Agencies (ACWA); 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 (CCEEB); California Municipal Utilities Association (CMUA); California Special Districts Association; California State Association of Counties (CSAC); California Water Efficiency Partnership; Calleguas Municipal Water District; Camrosa Water District; City of Beverly Hills; City of Grover Beach; City of Los Angeles; City of Los Banos; City of Roseville; City of Sacramento; City of Santa Rosa; City of Thousand Oaks; City of Ventura; Clean Water Action; Climate Action California's Decarbonization Team; Coachella Valley Water District; Coastside County Water District; Community Alliance with Family Farmers; Contra Costa Water District; County of Ventura; Crescenta Valley Water District; Crestline-Lake Arrowhead Water Agency; Cucamonga Valley Water District; Defenders of Wildlife; Desert Water Agency; East Bay Municipal Utility District; East Valley Water District; Eastern Municipal Water District; El Dorado Irrigation District; El Toro Water District; Elk Grove Water District; Elsinore Valley Municipal Water District; Georgetown Divide Public Utility District; Helix Water District; Imperial Irrigation 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; Mayor Todd Gloria, City of San Diego; McKinleyville Community Services District; McMullin Area Groundwater Sustainability Agency; Mendocino County Russian River Flood Control & Water Conservation; Mission Springs Water District; Monte Vista Water District; Montecito Water District; Monterey County Water Resources Agency; Monterey Peninsula Water Management District; Mountain Counties Water Resources Association; North Marin Water District; Olivenhain Municipal Water District; Orange County Sanitation District; Otay Water District; Padre Dam Municipal Water District; Palmdale Water District; Paradise Irrigation District; Pico Water District; Rainbow Municipal Water District; Rancho California Water District; Regional Water Authority; Rincon del Diablo Municipal Water District; Rio Linda Elverta Community Water District; Rowland Water District; Rural County Representatives of California; San Diego County Water Authority; San Francisco Public Utilities Commission; San Joaquin Valley Water Collaborative Action Program; San Juan Water District; Santa Clara Valley Water District; Santa Clarita Valley Water Agency; Santa Fe Irrigation District; Santa Margarita Water District; City of Soledad; South Tahoe Public Utility District; Stinson Beach County Water District; Stockton East Water District; Tahoe City Public Utility District; Tehachapi-Cummings County Water District; The Climate Reality Project San Diego Chapter; Three Valleys Municipal Water District; Town of Hillsborough; Trabuco Canyon Water District; Tri-County Water Authority; City of Tulare; Union Public Utility District; City of Upland; Valley Center Municipal Water District; Valley Sanitary District; Valley Water; Vista Irrigation District; Walnut Valley Water District; West Valley Water District; Western Municipal Water District; Yorba Linda Water District.

Opposition: California Apartment Association; California Association of Realtors; California Building Industry Association (CBIA); California Business Properties Association; California Taxpayers Association; Howard Jarvis Taxpayers Association (HJTA).

Fiscal Effect

NO STATE COSTS

Arguments in Support

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."

The issue at hand. Recent appellate court decisions on this matter have resulted in differing – and in some cases conflicting – decisions, creating uncertainty for water agencies about how proportionality must be demonstrated. Because of this conflict, it is now both necessary and appropriate for the Legislature to clarify how the courts and water agencies should interpret the Constitution. 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.

Arguments in Opposition

Lets the Courts Do Their Job. California's constitutional system divides authority among three co-equal branches of government. The Legislature enacts laws, but it is ultimately the Judiciary's responsibility to interpret the California Constitution.

Conflicting appellate court decisions have created uncertainty regarding the proper application of Proposition 218, and the California Supreme Court has granted review to resolve that conflict. Rather than allowing the judicial process to run its course, AB 2180 effectively adopts one appellate court's interpretation before the state's highest court has spoken. If the Supreme Court ultimately reaches the same conclusion, the legislation will have done little more than anticipate the Court's resolution of the issue. If it reaches a different conclusion, the statutory language may prove inconsistent with the Court's constitutional interpretation. Respect for the separation of powers counsels against legislative intervention while the constitutional question remains pending before the courts.

The Legislature should not attempt to resolve an active constitutional dispute that is currently before the California Supreme Court.

Weakens Proposition 218's Taxpayer Protections. Proposition 218 requires that property-related fees and charges not exceed the proportional cost of providing service to a parcel. AB 2180 loosens that nexus by expressly allowing agencies to rely on systemwide projections, peak-demand factors, customer classifications, and other generalized methodologies to justify rates. While these approaches may provide agencies greater flexibility, they also increase the risk that costs will be overestimated or shifted among groups of ratepayers based on generalized assumptions rather than the actual cost of providing service to a particular parcel. By allowing agencies to demonstrate proportionality through a broadly defined “reasonable basis,” AB 2180 could make it more difficult for ratepayers to determine whether their charges actually reflect their proportional cost of service and to challenge rates that do not.

Proposition 218 was intended to constrain local government's ability to impose property-related fees and charges and to provide meaningful protections for taxpayers; the Legislature should be cautious about weakening those protections.

Digest

Allows local agencies, for the purpose of calculating property-related fees and charges to comply with Proposition 218, to demonstrate the proportional cost of service to the parcel with any method that reasonably allocates the cost of providing service to all parcels. Local agencies must substantiate the allocation with historic, existing, estimated, or projected data that reasonably captures the cost of the service provided.

When a local agency imposes a fee or charge for water or sewer service, the agency is not required to provide an exact measure of the cost of the service at each parcel, and AB 2180 allows a local agency to impose uniform or tiered rates defined based on common characteristics indicative of likely water or sewer use. When imposing tiered rates for water, a local agency can substantiate the proportional cost of the service within each tier by using any reasonable basis for allocating costs to the tier, including:
· The cost of water from various sources;
· Facilities operation, maintenance, or construction costs;
· Contribution to systemwide peak demand projections; and
· Costs that an agency incurs as a result of the use of water at various tiers or to implement water conservation or demand measures and incremental costs.

AB 2180 provides that state law does not require an agency to have a cost-based, or any other, justification for establishing a tier breakpoint—the point where a customer leaves on tier and enters another. The agency has discretion to determine the costs allocated to each tier, provided that it does not exceed the proportional cost of service reasonably allocated to parcels subject to that tier.

AB 2180 states that it does not apply to water and sewer connection fees and capacity charges.

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.

Requirements on fees.
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. However, Proposition 218 exempts various local fees from some or all of its requirements:
· Fees for electric and gas service are exempt from all of its requirements;
· Sewer, water, or refuse collection services are exempt from Proposition 218's voter approval requirements; and
· Development fees are a separate category of fee not subject to Proposition 218's requirements. Examples of these fees include the fees that water and sewer agencies charge when a new user connects to their systems (known as "connection fees" and "capacity charges").

Recent water rate litigation.
Water rates have been fertile ground for lawsuits since voters approved Proposition 218

in 1996.

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, thereis 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, anddespite the ruling in*Capistrano*,disputes over how best to determine rates continue to this day.

In 2019, the California Supreme Court ruled challenges to the methodology used to determine rates are by their nature "substantive" as the existing law provides no "clearly defined machinery for the submission, evaluation, and resolution of complaints by aggrieved parties" (*Plantier v. City of Ramona Municipal Water District*(2019) (7 Cal.5th 372, 384). The Court opened its ruling by saying, "The question here is a narrow one. When an agency considers increasing a property-related fee, must a fee payor challenging the method of fee allocation first exhaust 'administrative remedies' by participating in a Proposition 218 hearing that addresses only a proposed rate increase? The answer is no." In other words, a ratepayer could challenge a local agency's fees or charges regardless of whether or not they raised issues during the local agency's ratemaking process. In other contexts outside of Proposition 218, claimants must exhaust administrative remedies before pursuing judicial remedies.

California Courts of Appeal have recently reached different conclusions on the permissibility of tiered rates:
· In *Coziahr v. Otay Water Dist.* (2024) (103 Cal. App. 5th 785),the court found that Otay Water District's tiered rates violated Proposition 218 because the district could not demonstrate that its tiered rates were proportional to the cost of service for each parcel;
· In *Patz v. City of San Diego* (2025) (113 Cal. App. 5th 225), the court struck down the City of San Diego's tiered rates because the city failed to show that its tiered water rates complied with Proposition 218's proportionality requirements due in part to the city's inability to present evidence supporting its claims about the source of supply and peak demand; and
· In *Dreher v. Los Angeles Dept. of Water & Power* (2024) (116 Cal. App. 5th 977), the court upheld the city's tiered based rate structure citing that Proposition 218 "…requires proportionality, not exactness, and does not require the City to trace the flow of water from each source of supply to each parcel, molecule by molecule." On March 11, 2026,

the California Supreme Court granted review of the *Dreher*case.

To ensure that water agencies can continue to impose tiered rates, the Association of California Water Agencies wants to codify the *Dreher* decision. However, lawmakers may wish to note that the California Supreme Court granted review in *Dreher v. City of Los Angeles Department of Water and Power* (S294899) on March 11, 2026. Importantly, the Court limited review to the precise constitutional question at issue in AB 2180:

"Do the methods adopted by the City of Los Angeles to set water budgets and allocate water supply costs result in tiered water rates that violate the proportionality requirement of article XIII D, section 6, subdivision (b)(3) of the California Constitution?"