



April 24, 2024

The Honorable Juan Carrillo
 Chair, Assembly Committee on Local Government
 1020 N Street, Room 157
 Sacramento, CA 95814

RE: AB 2257 (Wilson) – Local government: property-related water and sewer fees and assessments: remedies

Position: SUPPORT

Dear Chair Carrillo:

The Association of California Water Agencies (ACWA) and undersigned organizations write to express our strong support for AB 2257, which would authorize public agencies to adopt procedures for the submittal and consideration of public comments regarding proposed water and sewer rates and assessments. This optional process proposed in this bill would facilitate dialogue and transparency and give public agencies an opportunity to resolve concerns during the ratemaking process.

Public water and sewer agencies provide essential government services for the benefit of communities, agriculture, industries, and the environment. 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.

The revenue necessary for public agencies to fulfill their essential government functions and adapt to a changing climate predominantly comes from service rates and assessments. While these agencies require financial stability to meet ever increasing demands, a rise in Proposition 218 litigation is making it increasingly difficult to ensure agencies can pass fair and reasonable rates to cover the costs of operations and investments.

Oftentimes, these suits are filed without first having raised concerns with the public agency during the public notice-and-comment process leading up to the decision to adopt rates or assessment. When litigants avoid raising concerns with proposed rates or assessments during the ratemaking process, the public agencies cannot endeavor to resolve the dispute and avoid litigation. The financial consequences of these lawsuits can be severe, as it is not uncommon for litigants to seek tens of millions of dollars in damages. Surprise lawsuits have the potential to undermine an agency's ability to maintain stable budgets necessary to operate effectively.

AB 2257 would build upon Proposition 218's existing procedural requirements by creating an exhaustion of administrative remedies procedure, that if a public agency elected to follow, would require the timely submittal of written objections during an agency's ratemaking process. Ratepayers would be required to state the particular Proposition 218 compliance concern, and public agencies would be required to provide to their board and the public with written responses to each comment received prior to acting on the proposed rate or assessment. Ratepayers would be required to participate in this process in order to challenge the agency's adopted rates or assessments in court.

With a greater understanding of potential concerns and the agency's responses, the agency's board would have the opportunity to abandon its ratemaking/assessment proposal, change it (reduce it), or to better explain why it complies with Proposition 218's substantive limitations, before having to defend it in litigation. Additionally, if a public agency complies with the exhaustion procedures, the bill would specify documents that could be included in the administrative record, subject to certain exceptions, in the event of litigation.

AB 2257 would bolster the financial stability of public water and sewer agencies by creating a clear and robust public process that facilitates dialogue, transparency, and the opportunity to resolve issues and avoid costly litigation. Codifying a procedure that requires issue exhaustion in Proposition 218 litigation would protect both legislative and adjudicative functions by allowing a legislative body to hear the evidence, apply its reasoned discretion and expertise, and create an administrative record to facilitate

judicial review. This would also foster better-informed administrative decisions, which benefit the objector, the public agency, and members of the public within the public agency's jurisdiction. This is especially valuable in ratemaking cases in which evidence and policies are highly technical. It would also help agencies develop more defensible rates and build rapport and trust with their ratepayers.

For the reasons above, ACWA and undersigned organizations strongly support AB 2257 and respectfully request your "AYE" vote when the bill is heard in the Assembly Local Government Committee. If you have any questions about our position or this bill, please contact ACWA Senior State Relations Advocate, Kristopher Anderson, at KrisA@acwa.com or (916) 441-4545.

Sincerely,

Kristopher M. Anderson, Esq.
Senior State Relations Advocate
Association of California Water Agencies

Mary Rogren
General Manager
Coastside County Water District

Chad Wegley
General Manager
Alta Irrigation District

Ernesto A. Avila
Board President
Contra Costa Water District

David J. Coxey
General Manager
Bella Vista Water District

James Lee
General Manager
Crescenta Valley Water District

Tina Tyler-O'Shea
Board President
Brooktrails Township Community Services
District

Jennifer A. Spindler
General Manager
Crestline-Lake Arrowhead Water Agency

Michael Quigley
Executive Director
California Alliance For Jobs

John Bosler
General Manager/CEO
Cucamonga Valley Water District

Danielle Blacet-Hyden
Deputy Executive Director
California Municipal Utilities Association

Daniel Muelrath
General Manager
Diablo Water District

Kristine McCaffrey
General Manager
Calleguas Municipal Water District

Jan Lee
General Manager
Dublin San Ramon Services District

Norman Huff
General Manager
Camrosa Water District

Joe Mouawad, P.E.
General Manager
Eastern Municipal Water District

Natalie Rogers
Mayor
City of Santa Rosa

Mike Myatt
Senior Director, Climate Resilient Water
Systems
Environmental Defense Fund

Jack Bebee
General Manager
Fallbrook Public Utility District

Bruce Kamilos, P.E.
General Manager
Florin Resource Conservation District/Elk Grove
Water District

Nicholas Schneider
General Manager
Georgetown Divide Public Utility District

Brian M. Olney
General Manager
Helix Water District

Hannah Davidson
Water Resources Specialist II
Hidden Valley Lake Community Services District

Paul A. Cook
General Manager
Irvine Ranch Water District

Jeremy Wolf
Legislative Program Manager
Las Virgenes Municipal Water District

Pat Kaspari
General Manager
McKinleyville Community Services District

Matt Hurley
General Manager
McMullin Area Groundwater Sustainability
Agency

Elizabeth Salomone
General Manager
Mendocino County Russian River Flood Control
& Water Conservation Improvement

Kathryn Wuelfing
General Manager
Mid-Peninsula Water District

Justin Scott-Coe
General Manager
Monte Vista Water District

Nick Turner
General Manager
Montecito Water District

Jennifer Hanson
General Manager
Nevada Irrigation District

Kimberly A. Thorner
General Manager
Olivenhain Municipal Water District

Kyle Swanson
CEO/General Manager
Padre Dam Municipal Water District

Anthony L. Firenzi
Director of Strategic Affairs
Placer County Water Agency

Trent Taylor
Water Resources Manager
Rosedale-Rio Bravo Water Storage District

Betsy Miller
General Manager
San Bernardino Valley Water Conservation
District

Paul Helliker
General Manager
San Juan Water District

Matt Stone
General Manager
Santa Clarita Valley Water Agency

Peter M. Rietkerk
General Manager
South San Joaquin Irrigation District

Justin Hopkins
General Manager
Stockton East Water District

Carlos Quintero
General Manager
Sweetwater Authority

Sean Barclay
General Manager
Tahoe City Public Utility District

Matthew Litchfield
General Manager
Three Valleys Municipal Water District

Deanna Jackson
Executive Director
Tri-County Water Authority

Gary Arant
General Manager
Valley Center Municipal Water District

Erik Hitchman
General Manager
Walnut Valley Water District

Craig D. Miller, P.E.
General Manager
Western Municipal Water District

cc: The Honorable Lori Wilson
Honorable Members, Assembly Committee on Local Government
Jimmy MacDonald, Principal Consultant, Assembly Committee on Local Government
William Weber, Consultant, Assembly Republican Caucus