

ASSEMBLY BILL

No. 2403

Introduced by Assembly Members Rendon and Mullin

February 21, 2014

An act to amend Section 53750 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2403, as introduced, Rendon. Local government: assessments, fees, and charges.

Articles XIII C and XIII D of the California Constitution generally require that assessments, fees, and charges be submitted to property owners for approval or rejection after the provision of written notice and the holding of a public hearing. Existing law, the Proposition 218 Omnibus Implementation Act, prescribes specific procedures and parameters for local jurisdictions to comply with Articles XIII C and XIII D of the California Constitution and defines various terms for these purposes.

This bill would modify the definition of water to specifically include recycled water and stormwater intended for water service. This bill would also make legislative findings and declarations in this regard.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) The provisions of the Proposition 218 Omnibus
2 Implementation Act (Article 4.6 (commencing with Section 53750)
3 of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government
4 Code) shall be liberally construed to effectuate its purposes of
5 limiting local government revenue and enhancing taxpayer consent.

6 (b) This act is in furtherance of the policy contained in Section
7 2 of Article X of the California Constitution and the policy that
8 the use of potable domestic water for nonpotable uses, including,
9 but not limited to, cemeteries, golf courses, parks, highway
10 landscaped areas, and industrial and irrigation uses, is a waste or
11 an unreasonable use of the water within the meaning of Section 2
12 of Article X of the California Constitution if recycled water is
13 available.

14 (c) This act is declaratory of existing law, including the decisions
15 of the Sixth District Court of Appeals in Griffith v. Pajaro Valley
16 Water Management Agency (2013) 220 Cal.App.4th 586 and
17 Howard Jarvis Taxpayers Association v. City of Salinas (2002)
18 98 Cal. App.4th 1351.

19 SEC. 2. Section 53750 of the Government Code is amended
20 to read:

21 53750. For purposes of Article XIII C and Article XIII D of
22 the California Constitution and this article:

23 (a) “Agency” means any local government as defined in
24 subdivision (b) of Section 1 of Article XIII C of the California
25 Constitution.

26 (b) “Assessment” means any levy or charge by an agency upon
27 real property that is based upon the special benefit conferred upon
28 the real property by a public improvement or service, that is
29 imposed to pay the capital cost of the public improvement, the
30 maintenance and operation expenses of the public improvement,
31 or the cost of the service being provided. “Assessment” includes,
32 but is not limited to, “special assessment,” “benefit assessment,”
33 “maintenance assessment,” and “special assessment tax.”

34 (c) “District” means an area that is determined by an agency to
35 contain all of the parcels that will receive a special benefit from a
36 proposed public improvement or service.

37 (d) “Drainage system” means any system of public
38 improvements that is intended to provide for erosion control,
39 landslide abatement, or for other types of water drainage.

1 (e) “Extended,” when applied to an existing tax or fee or charge,
2 means a decision by an agency to extend the stated effective period
3 for the tax or fee or charge, including, but not limited to,
4 amendment or removal of a sunset provision or expiration date.

5 (f) “Flood control” means any system of public improvements
6 that is intended to protect property from overflow by water.

7 (g) “Identified parcel” means a parcel of real property that an
8 agency has identified as having a special benefit conferred upon
9 it and upon which a proposed assessment is to be imposed, or a
10 parcel of real property upon which a proposed property-related
11 fee or charge is proposed to be imposed.

12 (h) (1) “Increased,” when applied to a tax, assessment, or
13 property-related fee or charge, means a decision by an agency that
14 does either of the following:

15 (A) Increases any applicable rate used to calculate the tax,
16 assessment, fee or charge.

17 (B) Revises the methodology by which the tax, assessment, fee
18 or charge is calculated, if that revision results in an increased
19 amount being levied on any person or parcel.

20 (2) A tax, fee, or charge is not deemed to be “increased” by an
21 agency action that does either or both of the following:

22 (A) Adjusts the amount of a tax or fee or charge in accordance
23 with a schedule of adjustments, including a clearly defined formula
24 for inflation adjustment that was adopted by the agency prior to
25 November 6, 1996.

26 (B) Implements or collects a previously approved tax, or fee or
27 charge, so long as the rate is not increased beyond the level
28 previously approved by the agency, and the methodology
29 previously approved by the agency is not revised so as to result in
30 an increase in the amount being levied on any person or parcel.

31 (3) A tax, assessment, fee or charge is not deemed to be
32 “increased” in the case in which the actual payments from a person
33 or property are higher than would have resulted when the agency
34 approved the tax, assessment, or fee or charge, if those higher
35 payments are attributable to events other than an increased rate or
36 revised methodology, such as a change in the density, intensity,
37 or nature of the use of land.

38 (i) “Notice by mail” means any notice required by Article XIII C
39 or XIII D of the California Constitution that is accomplished
40 through a mailing, postage prepaid, deposited in the United States

1 Postal Service and is deemed given when so deposited. Notice by
2 mail may be included in any other mailing to the record owner
3 that otherwise complies with Article XIII C or XIII D of the
4 California Constitution and this article, including, but not limited
5 to, the mailing of a bill for the collection of an assessment or a
6 property-related fee or charge.

7 (j) “Record owner” means the owner of a parcel whose name
8 and address appears on the last equalized secured property tax
9 assessment roll, or in the case of any public entity, the State of
10 California, or the United States, means the representative of that
11 public entity at the address of that entity known to the agency.

12 (k) “Registered professional engineer” means an engineer
13 registered pursuant to the Professional Engineers Act (Chapter 7
14 (commencing with Section 6700) of Division 3 of the Business
15 and Professions Code).

16 (l) “Vector control” means any system of public improvements
17 or services that is intended to provide for the surveillance,
18 prevention, abatement, and control of vectors as defined in
19 subdivision (k) of Section 2002 of the Health and Safety Code and
20 a pest as defined in Section 5006 of the Food and Agricultural
21 Code.

22 (m) “Water” means any system of public improvements intended
23 to provide for the production, storage, supply, treatment, or
24 distribution of water, *including, but not limited to, recycled water*
25 *and stormwater intended for water service.*