

# CALAVERAS COUNTY WATER DISTRICT

## Legal Affairs Committee Meeting

### OUR MISSION

Protect, enhance, and develop Calaveras County's water resources and watersheds to provide safe, reliable, and cost-effective services to our communities.

2021-2026 Strategic Plan, Adopted April 28, 2021, can be viewed at this [link](#)

Regular Committee Meeting  
Tuesday, August 6, 2024  
1:00 p.m.

Calaveras County Water District  
120 Toma Court  
San Andreas, California 95249

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Administration Office at 209-754-3028. Notification in advance of the meeting will enable CCWD to make reasonable arrangements to ensure accessibility to this meeting. Any documents that are made available to the Board before or at the meeting, not privileged or otherwise protected from disclosure, and related to agenda items, will be made available at CCWD for review by the public.

District Board Meetings are open to in-person attendance by the public and are conducted virtually. The public may participate in the District's Board meeting with the link below. Members of the public who participate in the meeting via teleconference or web conference will be given the opportunity to speak and address the Board, and their comments will be included in the recording of the meeting.

While the District makes efforts to facilitate remote participation, please be aware that remote Teams involvement is offered solely for convenience. In the event of a technological malfunction, the Board can only guarantee the receipt of live comments through in-person attendance. With the exception of a noticed teleconference meeting, the Board retains the right to proceed with the meeting without remote access in case of a malfunction.

## Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

[+1 323-647-8603,,588444949#](#)

Phone Conference ID: 588 444 949#

### ORDER OF BUSINESS

#### CALL TO ORDER / PLEDGE OF ALLEGIANCE

#### 1. ROLL CALL

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#### COMMITTEE MEMBERS

Scott Ratterman, Chair    Jeff Davidson, Director

2. **PUBLIC COMMENT**

At this time, members of the public may address the Committee on any non-agendized item. The public is encouraged to work through staff to place items on the agenda for consideration. No action can be taken on matters not listed on the agenda. Comments are limited to three minutes per person.

3. **APPROVAL OF MINUTES**

3a Approval of Minutes for the June 6, 2024, Committee Meeting  
(Rebecca Hitchcock, Clerk to the Board)

4. **NEW BUSINESS**

4a\* Federal Legislative Update  
(Mia O’Connell, O’Connell & Dempsey and Michael Minkler, General Manager)

- Army Corps of Engineers’ Discussions
- FY 2025 Energy and Water Development Appropriations Bill and Other Appropriations Bills
- Addition Federal Updates

4b State Legislative Update  
(Kelly Gerkenmeyer, External Affairs Manager)

- SB1255 Public Water Systems: Needs Analysis: Water Rate Assistance Program (Kylie Wright, ACWA State Relations Analyst)
- Climate Resiliency Bond
- SB 1088 Cal OES: State Matching Funds: Water System Infrastructure Improvements
- AB 2257 Local Government Property-related Water and Sewer Fees and Assessments: Remedies
- AB 1827 Local Government: Fees and Charges: Water: Higher Consumptive Water Parcels
- SB 1072 Local Government: Proposition 218 Remedies
- AB 173 Transportation Budget Trailer Bill

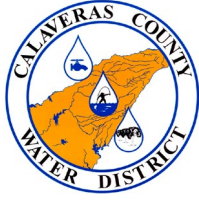
5.\* **GENERAL MANAGER COMMENTS**

6.\* **DIRECTOR COMMENTS OR FUTURE AGENDA ITEMS**

7. **NEXT COMMITTEE MEETING**

- Tuesday, October 1, 2024, at 1:00 p.m.

8. **ADJOURNMENT**



# CALAVERAS COUNTY WATER DISTRICT Legal Affairs Committee Meeting

**MINUTES  
JUNE 4, 2024**

The following Committee Members were present:

Director Davidson  
Director Ratterman

Staff Present:

Michael Minkler, General Manager  
Rebecca Hitchcock, Clerk to the Board  
Kelly Gerkenmeyer, External Affairs Manager  
John Coleman, Water Resources Manager  
Mark Rincon-Ibarra, District Engineer\*  
Stacey Lollar, Human Resources Manager\*  
Kate Jesus, Human Resources Technician\*  
Bana Rouson-Gedese, Water Resources Specialist\*  
Haley Arola, Engineering Coordinator\*  
Tiffany Burke, Operations Administrative Technician\*

Others Present:

Mia O'Connell, O'Connell & Dempsey\*  
Dane Wadle, CSDA\*  
Nick Blair, CSDA\*  
Russ Thomas  
Bertha Underhill\*

\*Attended Virtually

## **ORDER OF BUSINESS**

### **CALL TO ORDER / PLEDGE OF ALLEGIANCE**

#### **1. [ROLL CALL](#)**

Director Ratterman called the meeting to order at 1:03 p.m.

#### **2. PUBLIC COMMENT**

No public comment was heard.

#### **3. APPROVAL OF MINUTES**

3a Approval of Minutes for February 6, 2024, and April 2, 2024 Committee Meetings  
(Rebecca Hitchcock, Clerk to the Board)

Director Davidson moved to approve the minutes and Director Ratterman seconded the motion.

#### 4. **NEW BUSINESS**

4a [Federal Legislative Update](#)  
(Mia O'Connell, O'Connell & Dempsey and Michael Minkler, General Manager)

- Army Corps of Engineers' Discussions
- FY 2024 Appropriations and work Plan
- FY 2025 Congressional Directed Spending
- Water Resources Development Act of 2024
- Addition Federal Updates

**Discussion:** Mia O'Connell, O'Connell & Dempsey gave an update on Federal Affairs and responded to questions from the Committee.

**PUBLIC COMMENT:** No public comment was heard.

4b State Legislative Update  
(Kelly Gerkenmeyer, External Affairs Manager)

- [CSDA Advocacy Efforts](#)  
(Dane Wadle, Senior Public Affairs Coordinator)

**Discussion:** Dane Wadle from CSDA gave an update on their advocacy efforts and responded to questions from the Committee.

**PUBLIC COMMENT:** No public comment was heard.

- [Advanced Clean Fleets Regulation Update](#)  
(Nick Blair, ACWA State Relations Advocate)

**Discussion:** Nick Blair from ACWA gave an update on the CA Clean Fleets Regulations and responded to questions from the Committee.

**Discussion:** Kelly Gerkenmeyer gave an update on [other State Legislative items](#).

**PUBLIC COMMENT:** Public comment was given by Francisco de la Cruz.

#### 5. **GENERAL MANAGER COMMENTS**

Michael Minkler had nothing to report.

#### 6. **DIRECTOR COMMENTS OR FUTURE AGENDA ITEMS**

Director Davidson had nothing to report.

Director Ratterman stated he appreciates the new format with subject matter experts reporting on various items. He requested an agenda item on Clean Fleet requirements and the possibility of planning for the legislation with other agencies in the county.

6. **NEXT COMMITTEE MEETING**

- Tuesday, August 6, 2024 at 1:00 p.m.

7. **ADJOURNMENT**

The meeting was adjourned at 1:57 p.m.

Respectfully Submitted,

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Rebecca Hitchcock  
Clerk to the Board

DRAFT



# Legal Affairs Committee

August 6, 2024





# TOPICS

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## CLIMATE RESILIENCY BOND

California Water Plan Update

### **SB 1088**

Cal OES: State Matching Funds:  
Water System Infrastructure  
Improvements.

### **SB 1255**

Public water systems: needs analysis:  
water rate assistance program

### **AB 2257**

Local government: property-related  
water and sewer fees and  
assessments: remedies

### **AB 1827**

Local government: fees and  
charges: water: higher  
consumptive water parcels

### **SB 1072**

Local government: Proposition  
218: remedies

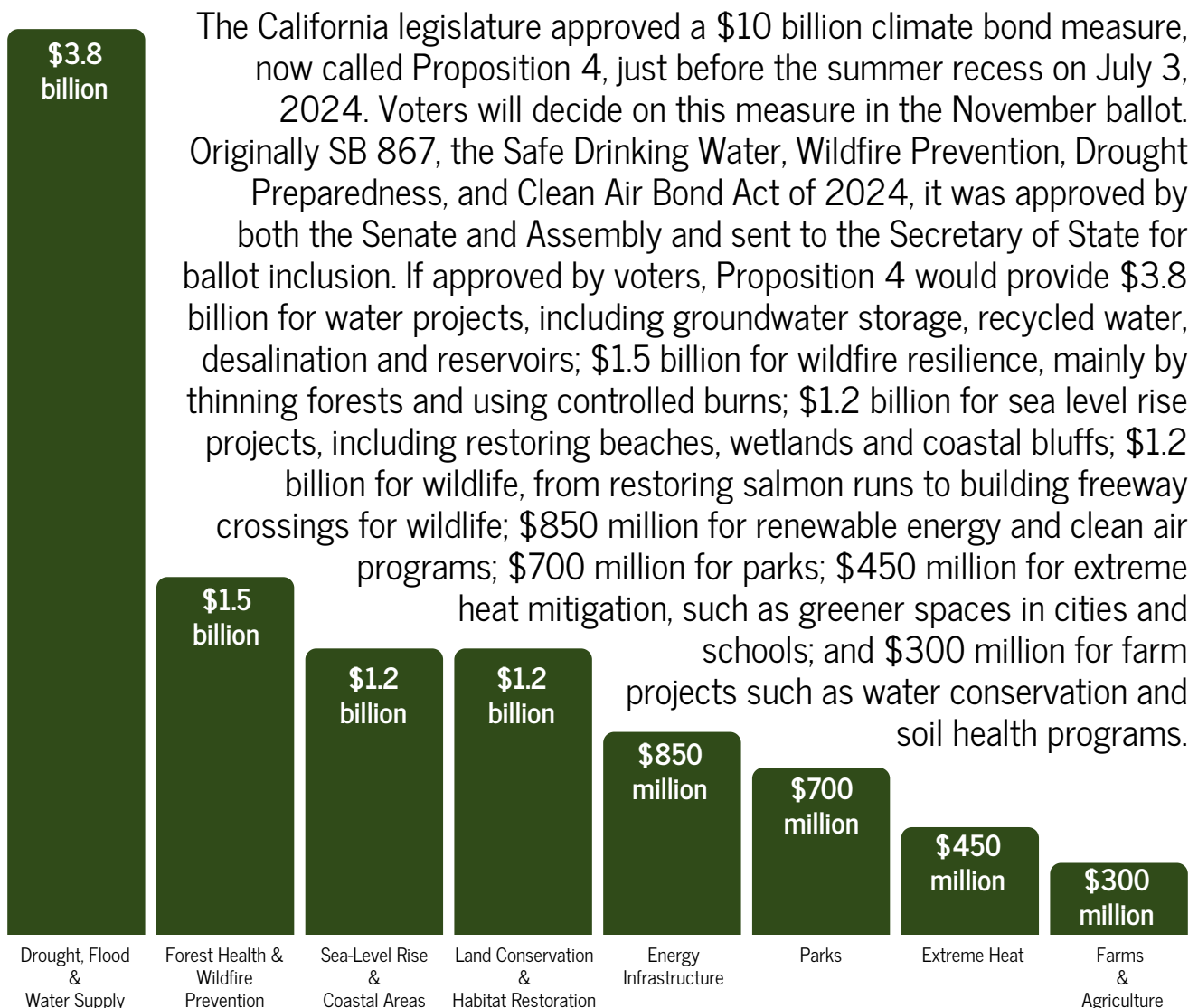
### **AB 173**

Transportation budget trailer bill

# \$10 BILLION CLIMATE BOND HEADS TO THE CALIFORNIA BALLOT



## PROP 4 WOULD AUTHORIZE THE ISSUANCE OF BONDS IN THE AMOUNT OF \$10 BILLION TOWARD CLIMATE RESILIENCE.







**Drought, Flood, and Water Supply (\$3.8 Billion).**

Roughly half of this money would be for activities to increase the amount and quality of water available for people to use (\$1.9 billion). This would include storing water so it can be used during future droughts, as well as cleaning polluted water to make it safe to drink. Money would also be used to help reduce the risk of floods, such as by repairing dams and capturing and reusing stormwater (\$1.1 billion). The rest of the money would be used for various activities, such as restoring rivers and lakes.

**Sea-Level Rise and Coastal Areas (\$1.2 Billion).**

Most of this money would pay for activities to restore coastal areas and protect them from the effects of rising sea levels (\$890 million). This could include restoring wetlands so they can serve as buffers to rising sea levels. The rest of this money would be used to improve ocean habitats and protect fish and other marine wildlife (\$310 million).

**Parks (\$700 Million).** The bulk of this money would support various activities that expand recreational opportunities at parks or reduce the impacts of climate change on parks (\$300 million). These activities could include adding new trails and parking areas. Some of this money would provide grants to local communities to build new parks or renovate existing parks (\$200 million). The rest of this money would be used to repair state parks and provide nature education (\$200 million)

**Extreme Heat (\$450 Million).** Much of this money would pay for activities focused on protecting communities from extreme heat (\$200 million). These activities could include adding trees and greenspaces. Money would also support places for people to go during heatwaves or disasters (\$100 million). The rest of the money would provide grants for local communities to conduct activities that provide environmental benefits, such as reducing air pollution (\$150 million).

**Forest Health and Wildfire Prevention (\$1.5 Billion).**

All of this money would support activities to improve the health of forests and reduce the risk of severe and destructive wildfires. This would include thinning trees in forests that are overgrown and clearing vegetation near where people live. Money would also be used for other activities, such as helping homeowners make their properties more resistant to wildfire damage.

**Land Conservation and Habitat Restoration (\$1.2 Billion).**

This money would be used to protect and restore land for the benefit of fish and wildlife. For example, it could support purchasing land to set aside so that it is not developed.

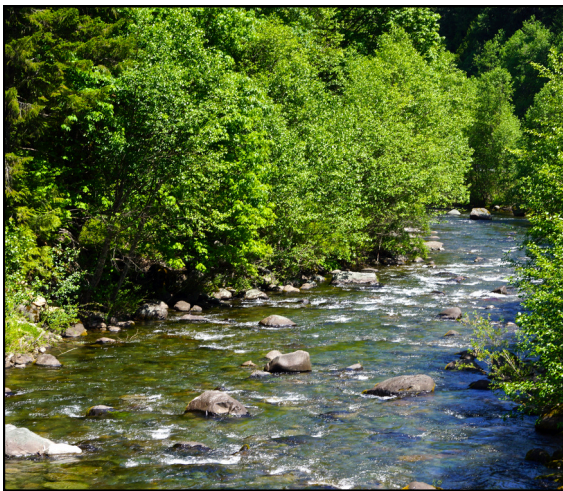
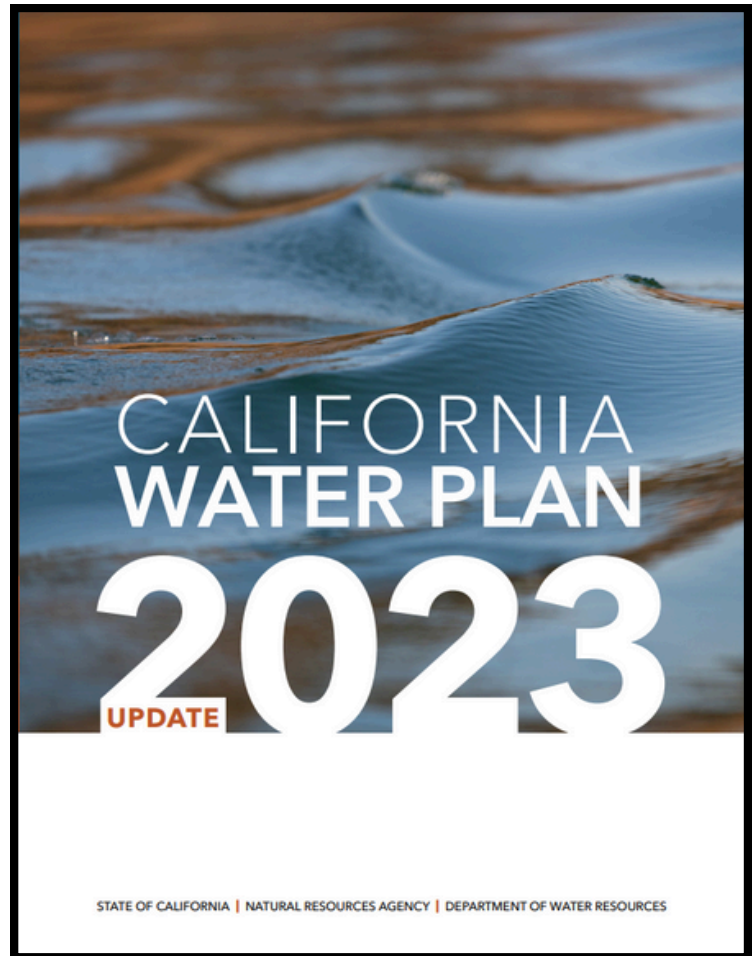
**Energy Infrastructure (\$850 Million).** More than half of this money would support the development of wind turbines off the California coast (\$475 million). Most of the remaining money would pay for building infrastructure such as transmission lines to carry electricity long distances (\$325 million). The rest of the money would pay for projects to build large batteries that store electricity for when it is needed (\$50 million).

**Farms and Agriculture (\$300 Million).** Much of this money would be used for activities that encourage farmers to improve soil health, reduce air pollution, and use less water (\$105 million). This money would also support community gardens and farmers' markets, such as by purchasing shade canopies (\$60 million). The rest of this money would support a range of other activities, such as purchasing vans to transport farmworkers and conserving farmland.

**Establishes Other Requirements for the Use of Funds.** Proposition 4 requires the bond money to be used in certain ways. For example, at least 40 percent of bond money must be used for activities that directly benefit communities that have lower incomes or are more vulnerable to the impacts of climate change. Proposition 4 also requires regular public reporting of how the bond money is spent.

On July 24, the Department of Water Resources (DWR) released its **California Watershed Resilience Assessment** (Assessment) in support of **California Water Plan Update 2023**.

The Assessment provides a high-level evaluation of the current state of watershed climate vulnerability, climate risk, and climate preparedness for watersheds throughout California.



California Water Plan Update 2023 described a Watershed Resilience Program (WRP) to encourage all water-related sectors (water supply, flood management, groundwater, ecosystems, water quality, recreation, and hydropower) to collaborate on climate resilience planning and management at the watershed scale.



# SB 1088

## Cal OES: State Matching Funds: Water System Infrastructure Improvements.

SB 1088 would, contingent on funding being appropriated pursuant to a bond act, establish the Rural Water Infrastructure for Community Wildfire Protection Program within the California Office of Emergency Services (Cal OES) for the distribution of state matching funds to communities within the Wildland Urban Interface in designated high fire severity zones or very high fire hazard severity zones to improve water system infrastructure.



SB 1088 would establish the Rural Water Infrastructure for Community Wildfire Protection Program within Cal OES for the distribution of state matching funds to communities within the Wildland Urban Interface in designated high fire severity zones or very high fire hazard severity zones to improve water system infrastructure by the following:

- **Upgrading and upsizing water lines;**
- **Installing additional fire hydrants;**
- **Enhancing water system delivery and distribution capacity to ensure adequate water flow for community fire prevention and fire suppression activities; and/or**
- **Creating interconnections between water systems for the purpose of improving water delivery and distribution capacity for fire suppression activities.**



**The establishment of the Rural Water Infrastructure for Community Wildfire Protection Program depends on funding appropriated by the Legislature to Cal OES. This funding must be approved by voters through a bond act in the statewide general election scheduled for November 5, 2024.**

# SB 1255

## LOW-INCOME RATE ASSISTANCE BILL

SB 1255 mandates that each retail water supplier serving more than 3,300 connections establish a LIRA program with specific minimum requirements. The funding source is proposed to be voluntary contributions from customers.

By September 1, 2026, qualified systems must provide ratepayers with the option to make a voluntary contribution through their water bills to support the LIRA program. Qualified systems must suggest a contribution amount on each bill (except for eligible ratepayers) to fund bill credits for eligible ratepayers, cover administrative costs starting January 1, 2025, and potentially create a balancing account. Ratepayers must be informed of this voluntary contribution and given the option to opt out. The bill also prohibits penalties for not paying the contribution. Additionally, qualified systems can use state or federal funds to support the assistance program.

By July 1, 2027, retail water suppliers with over 3,300 residential connections must offer water rate assistance to low-income ratepayers (those with household incomes at or below 200% of the federal poverty level). Eligible ratepayers should be automatically enrolled based on available information, including self-certification under penalty of perjury, and will receive a specified water bill credit.



The bill suggests an "opt-out" mechanism, where customers not receiving assistance would be charged the voluntary contribution unless they actively opt out. If customers do not see the notice and do not opt out, they will be charged a "voluntary" contribution.

Until June 5, SB 1255 was a study bill regarding water affordability for systems with fewer than 3,000 connections and did not propose a mandate on public water agencies. The proposed LIRA mandate was added on June 3, 2024.



**A thoughtfully designed Low-Income Rate Assistance (LIRA) program has the potential to greatly alleviate water affordability issues for low-income households. However, the effectiveness of such a program hinges on careful attention to its details.**

The Assembly Appropriations Committee will consider SB 1255 after the Legislature returns on August 5, and the bill could quickly advance to the Assembly floor for a vote in early August.

# AB 2257

## Local government: property-related water and sewer fees and assessments: remedies

Introduced by Assemblymember Lori Wilson (D-Suisun City), AB 2257 would require litigants to participate and raise specific objections during the public administrative process in order to challenge rates or assessments in court.

Assembly Bill 2257 creates an exhaustion of remedies process for Proposition 218 property-related water or sewer fees, charges, and assessments; and limits judicial actions available to claimants if the local agency goes through that process.

**Exhaustion of remedies process.** If a local agency complies with the identified exhaustion of remedies procedures, a person or entity cannot bring a judicial action alleging noncompliance with Proposition 218 unless they have submitted a written objection that specifies the grounds for alleging noncompliance within 45 days of receiving notice of the fee or charge from the local agency.

**CSDA & ACWA joined local agency stakeholders in supporting this legislation that would reduce agencies' exposure to adverse judicial intervention by requiring a potential litigant to participate in the Proposition 218 rate-setting process, provided the agency abides by specified procedures established by the bill.**



AB 2257 would build upon Proposition 218's existing procedural requirements by creating a clear and robust mechanism for customers to raise questions, concerns, comments, and criticisms of a proposed rate structure. The agency's governing body would have the benefit of hearing the evidence, which would include objections and the agency's responses, and apply its reasoned discretion and expertise. This is especially valuable in ratemaking cases in which evidence and policies are highly technical. The process would serve to foster better-informed administrative decisions, which benefit the objector, the public agency, and ratepayers that the agency serves. It would also help agencies develop more defensible rates and build rapport and trust with their ratepayers.

AB 2257, would aid public agencies in defending against Proposition 218 lawsuits, passed the Senate Local Government Committee on July 3. The bill is now on the Senate floor. Should it pass the Senate, it would go back to the Assembly

**If passed, AB 2257 would bolster the financial stability of public water and sewer agencies by creating a robust public process that facilitates dialogue, transparency, and the opportunity to resolve issues and avoid costly litigation.**

# AB 1827

## Local government: fees and charges: water: higher consumptive water parcels

To encourage water conservation, some agencies have proposed charging higher rates to less efficient water users. However, courts have interpreted Prop. 218 to prohibit such rate structures for disproportionately allocating costs among customers. (See Capistrano Taxpayers Assn., Inc. v. City of San Juan Capistrano (2015) 235 Cal.App.4th 1493.)

### **AB 1827 would clarify that a public agency may charge incrementally higher water rates due:**

- Higher water usage demands of parcels,
- Maximum potential water use,
- Projected peak water usage, or
- any combination of the above.

**This codifies the generally universal practice of meter charges and peaking (or base-extra capacity) components of rate structures**



This bill would provide that the fees or charges for property-related water service imposed or increased, as specified, may include the incrementally higher costs of water service due to specified factors, including the higher water usage demand of parcels. The bill would provide that the incrementally higher costs of water service associated with higher water usage demands, the maximum potential water use, or projected peak water usage may be allocated using any method that reasonably assesses the water service provider's cost of serving those parcels that are increasing potential water usage demand, maximum potential water use, or projected peak water usage. The bill would declare that these provisions are declaratory of existing law.

# SB 1072

## Local government: Proposition 218: remedies

The California Constitution sets forth various requirements for the imposition of local taxes. The California Constitution excludes from classification as a tax assessments and property-related fees imposed in accordance with provisions of the California Constitution that establish requirements for those assessments and property-related fees. Under these requirements, an assessment is prohibited from being imposed on any parcel if it exceeds the reasonable cost of the proportional special benefit conferred on that parcel, and a fee or charge imposed on any parcel or person as an incident of property ownership is prohibited from exceeding the proportional cost of the service attributable to the parcel.

This bill would require a local agency, if a court determines that a fee or charge for a property-related service, as specified, violates the provisions of the California Constitution relating to fees and charges, to credit the amount of the fee or charge attributable to the violation against the amount of the revenues required to provide the property-related service, unless a refund is explicitly provided for by statute.

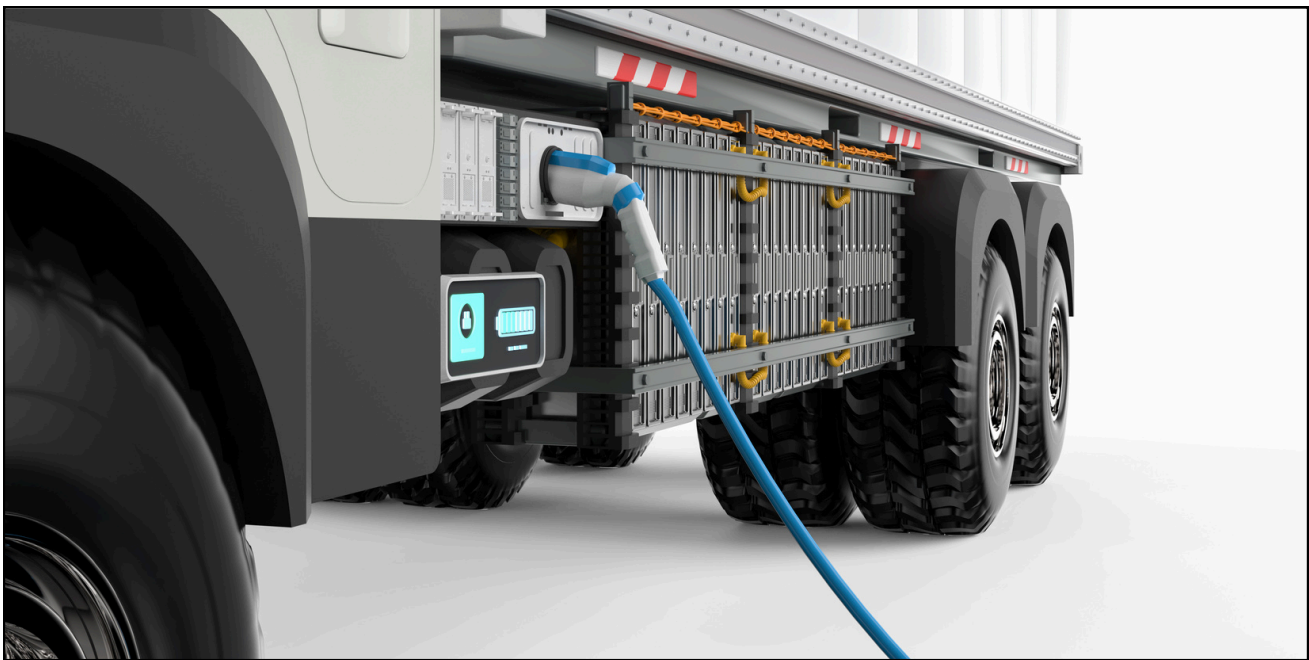


**Existing law, known as the Proposition 218 Omnibus Implementation Act, prescribes specific procedures and parameters for local compliance with the requirements of the California Constitution for assessments and property-related fees.**

CSDA and coalition partners are advocating for this legislation that ensures agency revenues are not exposed to disruptive Proposition 218 remedies incompatible with agency finance structures. The bill would provide that, if a court determines a certain charge was unlawful, the appropriate remedy would be to apply any excess fees collected toward reducing the cost for the agency to provide that service moving forward.

# AB 173

This bill is the omnibus Transportation budget trailer bill. It contains provisions necessary to implement the 2024 Budget Act.



California Department of Transportation (Caltrans) sought approximately \$250 Million to comply with ZEV mandates. Working closely with city and county partners, CSDA was able to advocate for adding reporting language to this Caltrans transportation budget trailer bill. This language requires Caltrans to annually compile and report information to the Legislature regarding the ZEVs the department purchases, owns, or leases. This will help all public agencies to gain valuable insights on how infrastructure and vehicle acquisition mandates can be addressed.