



A Tradition of Stewardship  
A Commitment to Service

Agenda Date: 6/19/2017

Agenda Placement: 7C

## Napa County Legislative Subcommittee Board Agenda Letter

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**TO:** Napa County Legislative Subcommittee

**FROM:** Molly Rattigan for Minh Tran - Interim County Executive Officer  
County Executive Office

**REPORT BY:** Michael Karath, Staff Assistant - BOS - 299-1477

**SUBJECT:** SB 231 (Hertzberg) - Defines the Term "Sewer" to Proposition 218 Omnibus Implementation Act

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### **RECOMMENDATION**

County Executive Officer seeks discussion and possible action on SB 231(Hertzberg), a bill that includes stormwater to the definition of "sewer" to the Proposition 218 Omnibus Implementation Act that will help facilitate the funding and building of stormwater runoff projects.

### **EXECUTIVE SUMMARY**

Counties, cities, and local water agencies throughout California need to fund stormwater and flood control projects to protect people and property from flooding, remove pollutants from stormwater, and increase groundwater recharge.

However, financing these projects is costly and difficult under current law. SB 231 would update the Proposition 218 Omnibus Implementation Act's definition of "sewer" to include storm drainage. Proposition 218, passed in 1996, imposes a variety of procedures for financing different kinds of water infrastructure projects. For example, water and sewer projects are subject to one set of procedures regarding public notification and protests, while stormwater projects are subject to a different process. These inconsistent rules have resulted in a lack of funding options to adequately capture and treat stormwater – a very necessary function.

SB 231 clarifies the statutory authority of counties, cities, and local water agencies to finance stormwater projects within the existing requirements of Proposition 218 for transparency and accountability. This will provide a more cost effective and efficient method to raise revenue urgently needed for these important public works projects.

CSAC: Support  
RCRC: Support

**FISCAL IMPACT**

Is there a Fiscal Impact?                      No

**ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

**BACKGROUND AND DISCUSSION**

Proposition 218 was approved by the voters at the November 5, 1996, statewide general election. Some court interpretations of the law have constrained important tools that local governments need to manage stormwater and drainage runoff.

Stormwaters are carried off in storm sewers, and careful management is necessary to ensure adequate state water supplies, especially during drought, and to reduce pollution. But a court decision found stormwater subject to the voter-approval provisions of Proposition 218 that apply to property-related fees, preventing many important projects from being built.

The definition of "water" and "sewer" under the Proposition 218 Omnibus Implementation Act is significant because the election requirements are on fees for services other than water, sewer, and trash services. Determining the services that fall within the definitions of "water" and "sewer" services has been the subject of litigation. An appellate court decision in *HJTA v. City of Salinas* (2002) found that a city's charges on developed parcels to fund stormwater management were property-related fees, and were not covered by the exemption for sewer or water services.

By amending the Proposition 218 Omnibus Implementation Act to include stormwater within the definition of a water/sewer fee, it cleans up the litigation history and creates a more efficient process for local jurisdictions to build much-needed stormwater infrastructure projects.

CSAC: Support  
RCRC: Support

**SUPPORTING DOCUMENTS**

- A . SB 231 - BILL TEXT - stormwater
- B . SB 231 - CSAC and RCRC support letter

Recommendation: Approve

Reviewed By: Molly Rattigan