



San Gabriel Valley Council of Governments

REVISED AGENDA AND NOTICE

OF THE JOINT MEETING OF THE WATER POLICY COMMITTEE & WATER TECHNICAL ADVISORY COMMITTEE (TAC)

Wednesday, March 15, 2017, 10:00 AM

Upper San Gabriel Valley Municipal Water District – 602 E. Huntington Dr., Monrovia, CA

Water Policy Committee Chair

Diana Mahmud
City of South Pasadena

Vice-Chair

Judy Nelson
City of Glendora

Members

*Claremont
Diamond Bar
Glendora
Monrovia
Rosemead
Sierra Madre
South Pasadena*

Water TAC

Members

*Alhambra
Arcadia
Covina
Monrovia
Sierra Madre
LA County DPW
Upper San Gabriel
Valley MWD*

Ex-Officio Members

*Foothill MWD
LA County Sanitation
Districts
SG Basin Watermaster*

Thank you for participating in today's meeting. The Water Committee encourages public participation and invites you to share your views on agenda items.

MEETINGS: *Regular Meetings of the Water Committee are held on the third Wednesday of each month at 10:00 AM at the Upper San Gabriel Valley Municipal Water District Offices 602 E. Huntington Drive, Suite B Monrovia, CA 91016.* The agenda packet is available at the San Gabriel Valley Council of Government's (SGVCOG) Office, 1000 South Fremont Avenue, Suite 10210, Alhambra, CA, and on the website, www.sgvco.org. Copies are available via email upon request (sgv@sgvco.org). Documents distributed to a majority of the Committee after the posting will be available for review in the SGVCOG office and on the SGVCOG website. Your attendance at this public meeting may result in the recording of your voice.

CITIZEN PARTICIPATION: Your participation is welcomed and invited at all Water Committee and Water TAC meetings. Time is reserved at each regular meeting for those who wish to address the Committee. SGVCOG requests that persons addressing the Committee refrain from making personal, slanderous, profane or disruptive remarks.

TO ADDRESS THE COMMITTEE: At a regular meeting, the public may comment on any matter within the jurisdiction of the Committee during the public comment period and may also comment on any agenda item at the time it is discussed. At a special meeting, the public may only comment on items that are on the agenda. Members of the public wishing to speak are asked to complete a comment card or simply rise to be recognized when the Chair asks for public comments to speak. We ask that members of the public state their name for the record and keep their remarks brief. If several persons wish to address the Committee on a single item, the Chair may impose a time limit on individual remarks at the beginning of discussion. **The Water Committee and Water TAC may not discuss or vote on items not on the agenda.**

AGENDA ITEMS: The Agenda contains the regular order of business of the Water Committee and the Water TAC. Items on the Agenda have generally been reviewed and investigated by the staff in advance of the meeting so that the WRWG Committee can be fully informed about a matter before making its decision.

CONSENT CALENDAR: Items listed on the Consent Calendar are considered to be routine and will be acted upon by one motion. There will be no separate discussion on these items unless a Committee member or citizen so requests. In this event, the item will be removed from the Consent Calendar and considered after the Consent Calendar. If you would like an item on the Consent Calendar discussed, simply tell Staff or a member of the Committee.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the SGVCOG office at (626) 457-1800. Notification 48 hours prior to the meeting will enable the SGVCOG to make reasonable arrangement to ensure accessibility to this meeting.



PRELIMINARY BUSINESS

1. Call to Order
2. Roll Call
3. Public Comment (*If necessary, the Chair may place reasonable time limits on all comments*)

CONSENT CALENDAR (*It is anticipated that the Water Committee/TAC may take action on the following matters*)

4. Water Committee/TAC Meeting Minutes – 2/15/2017
Recommended Action: Approve.

PRESENTATION

ACTION ITEMS (*It is anticipated that the Water Committee/TAC may take action on the following matters*)

5. SB 589 (Hernandez): Adds Financial Capabilities Assessment to Porter-Cologne
Recommended Action: Recommend that the Governing Board support SB 589.
6. SB 541 (Allen): Requires the Dept. of Education, State Architect and Office of School Public Construction to consult and recommend best water capture design standards for all new, reconstructed, or altered public schools
Recommended Action: Recommend that the Governing Board support SB 541.
7. AB 1180 (Holden): Increase tire fee and deposit the money in the Stormwater Permit Compliance Fund
Recommended Action: Recommend that the Governing Board support AB 1180.

DISCUSSION ITEMS (*It is anticipated that the Water Committee/TAC may take action on the following matters*)

8. SB 231 (Hertzberg)
Recommended Action: Postpone discussion until April Water Policy Committee/TAC meeting.

INFORMATION ITEMS

9. Water Boards Update
Recommended Action: For information.
10. Stormwater Outreach Updates
 - Sacramento: 22 Feb
 - Washington, D.C.: 13-15 March*Recommended Action: For information.*
11. Proposed Revisions to the Clean Water Act Section 303(d) List
Recommended Action: For information.
12. Legislative Updates
 - HR 465 (Gibbs)
 - HR 1105 (Allen)
 - HR 1261 (Thornberry)*Recommended Action: For information.*
13. Litigation Update
 - Glendale Water Rates case*Recommended Action: For information.*
14. Regulatory Updates
 - LA County Water Resilience Proposal
 - WOTUS

- Report on Waste Discharge/MS4 Permit update.
Recommended Action: For information.
- 15. E/WMP Updates
Recommended Action: For information.
- 16. Water Supply Update
Recommended Action: For information.
- 17. Recent communications re MWD
Recommended Action: For information.

CHAIR'S REPORT

ANNOUNCEMENTS

- March 9, [Urban Greening Grant Program](#), Lynwood Civic Center
- April 3, [Stormwater Finance Forum](#). Sponsored by USEPA Region 9. The forum will be held at LACDPW, Alhambra.
- April 6, LARWQCB meeting

ADJOURN



SGVCOG Joint Water Policy Committee/TAC Unapproved Minutes

Date: February 15, 2017
Time: 10:00 AM
Location: Upper San Gabriel Valley Municipal Water District
602 E. Huntington Drive, Monrovia, CA

PRELIMINARY BUSINESS

1. Call to Order: The meeting was called to order at 10:04 AM.
2. Roll Call

Water Policy Committee Members Present

S. Pedroza, Claremont
N. Lyons, Diamond Bar
J. Nelson, Glendora
G. Crudgington, Monrovia
M. Clark, Rosemead
J. Capoccia, Sierra Madre
D. Mahmud, South Pasadena

Water Policy Committee Members Absent

Water TAC Members Present

D. Dolphin, Alhambra
V. Hevener, Arcadia
A. Tachiki, Monrovia
J. Carlson, Sierra Madre
P. Alva, M. Adhami, LACDPW
S. Chapman, USGVMWD

Water TAC Members Absent

Covina

Ex Officio Members Present

R. Serna, SG Basin Watermaster
L. Miller, LACSD

Ex Officio Members Absent

Foothill Muni Water Dist

Guests

R. Tahir, TECS Environmental
L. O'Brien, La Puente
W. La, SGMRC
J. Carver, Pomona

M. Cansino, Pomona
M. Lyons, Assembly Member Holden
J. Shimmin, South Pasadena

SGVCOG Staff

P. Hawkey
E. Wolf

3. Public Comment. There were no public comments.

CONSENT CALENDAR

4. Water Committee/TAC Meeting Minutes – 1/18/2017
There was a motion to approve the minutes. (M/S: J. Nelson/G. Crudgington).

AYES:	Claremont, Diamond Bar, Glendora, Monrovia, Rosemead, Sierra Madre, South Pasadena, Alhambra, Arcadia, Monrovia, Sierra Madre, LACDPW, USGVMWD
NOES:	
ABSTAIN:	
ABSENT:	Covina

PRESENTATION

ACTION ITEMS

5. Letter of Support for Appointment of Ms. Irma Munoz to the State Water Resources Control Board

J. Nelson and D. Mahmud advocated for why the committee should take a position of support, noting that Ms. Munoz, as someone who has seen the difficulties of implementing the current permit structure, could help steer a more common-sense approach at the state level. Other members raised concerns about supporting Ms. Munoz including, concern that she had not come out against the E/WMP structure and concern that the SGVCOG would lose the first board member who made an outreach to MS4 permittees.

There was a motion to recommend to the Governing Board that it send a positive endorsement of Ms. Munoz. (M/S: J. Nelson/G. Crudgington).

AYES:	Claremont, Diamond Bar, Glendora, Monrovia, Rosemead, Sierra Madre, South Pasadena, Alhambra, Arcadia, Monrovia, Sierra Madre, USGVMWD
NOES:	
ABSTAIN:	LACDPW
ABSENT:	Covina

DISCUSSION ITEMS

6. Proposed Revisions to the Clean Water Act Section 303(d) List

D. Mahmud discussed concerns that the proposed changes are based on 2010 data, not taking advantage of the most up-to-date monitoring. P. Alva stated that the FCD is reviewing the data and is intrigued that zinc may be delisted. He noted that pesticides have been added. This is concerning because pesticides are a ubiquitous, non-point source of pollution and nearly impossible for a municipality to control. He also recommended that the SGVCOG request that the Regional Board hold a public workshop in order for the public to better understand the proposed listing and so that the Board can hear from the public. W. La also commented that it is very uncommon to see delistings. S. Chapman proposed that the new listing be part of the negotiation of the next permit. R. Tahir noted that there is a process by which permittees can petition to the State Board if they are not happy with the Regional Board’s response to their concerns. J. Nelson suggested, given the technical nature of the listings and the myriad of potential negative outcomes for permittees, that the Water Policy Committee form a working group in order to consider the proposed 303(d) listing from a combined approach including legal, political, and technical application. The group’s work could result in a comment/response letter to the Regional and State Boards addressing the updated list.

There was a motion to form a working group in order to review the 303(d) listing and draft a response letter. (M/S: D. Mahmud/J. Nelson).

AYES:	Claremont, Diamond Bar, Glendora, Monrovia, Rosemead, Sierra Madre, South Pasadena, Alhambra, Arcadia, Monrovia, Sierra Madre, LACDPW, USGVMWD
NOES:	
ABSTAIN:	
ABSENT:	Covina

INFORMATION ITEMS

7. Water Boards Update:

G. Crudgington attended the last Regional Water Board meeting. She said the new members of the board are seated and voting. Crudgington distributed copies of the SGVCOG Stormwater policy to all board members and discussed our efforts to comply with MS4 permits. The Board thanked her for communicating and she thanked the Board for listening. P. Alva advised that publically addressing the Board in this manner may be the only time/way they hear about our efforts to comply with MS4 permitting and that this shows good faith.
8. Stormwater Outreach Updates

E. Wolf updated the committee legislation being sponsored by SGV state representatives. He gave an overview of the meeting schedule for the February 22nd, Sacramento trip. P. Alva asked who would lead our lobbying effort, to which D. Mahmud responded that we have support from the League of CA Cities. D. Mahmud updated the group on an upcoming presentation to SCAG on March 2nd.
9. Litigation Update

E. Wolf reviewed the facts and decision in the NRDC v. SWRCB case.
R. Tahir reported that there will be a case management meeting on Tuesday, 21 February in Santa Ana regarding the Duarte and Gardena cases. Gardena will push for a hearing date, while Duarte with ask that their case be separated.
10. Legislative Updates

J. Nelson informed the committee of Senator Hertzberg’s intention to introduce SB 231, legislation that would include stormwater as a utility exempt from Proposition 218 voter requirements. The group discussed what position the SGVCOG should take. Hertzberg is the Chair of the Senate, Nature Resources and Water Committee. As such, our proposed stormwater legislation will likely pass through his committee. Some members were concerned that if we take a position opposing SB 231 that may adversely affect our proposed legislation, while others are concerned about the potential dilution of Proposition 218. Members requested that this item be added to next month’s agenda for potential action.
11. Regulatory Updates

Due to time constraints, there was no update on this item.
12. E/WMP Updates

Due to time constraints, there was no update on this item.
13. WELL Stormwater Collection Workshop update

Due to time constraints, there was no update on this item.
14. Report on Waste Discharge/MS4 Permit update.

Due to time constraints, there was no update on this item.
15. Water Supply Update

S. Chapman gave a presentation covering the state of our water supply. He noted that the federal government still considers LA County to be in a state of drought. The Key Well of the Main San Gabriel Basin is still 19 feet below required level. He recommended continuing to support action by the Watermaster to import water in order to replenish the basin. Chapman reviewed the events leading up to the Oroville dam evacuation.

CHAIR'S REPORT

ANNOUNCEMENTS

ADJOURN

The meeting adjourned at 12:11 P.M.

REPORT

DATE: March 16, 2017

TO: Water Policy Committee
Governing Board

FROM: Phil Hawkey, Executive Director

RE: **SUPPORT OF SB 589 (HERNANDEZ)**

RECOMMENDED ACTION

Recommend Governing Board adopt Resolution 17-06 supporting SB 589 (Hernandez).

BACKGROUND

At the January 2017, Governing Board meeting, members adopted Resolution 16-31 identifying stormwater legislative priorities for 2017 and directing the Water Policy Committee to engage with State and Federal legislators to support these priorities. Since then, committee members have drafted initial state legislation and engaged with San Gabriel Valley representatives who have agreed to sponsor legislation. As a result of these efforts, several bills have been introduced. One bill, SB 589 (Hernandez) would apply a process similar to the Environmental Protection Agency's Financial Capability Assessment to the state permitting process.

The Environmental Protection Agency's (EPA) Financial Capability Assessment (FCA) is a framework for assessing a community's ability to finance water-related capital infrastructure and the ability of individual utility customers to pay for water services without undue hardship. As programs are implemented to improve water quality and attain Clean Water Act (CWA) objectives, local governments find themselves facing difficult economic challenges. Local taxing restrictions and economic realities often preclude passing compliance costs on to ratepayers. In some cases, the regulatory costs associated with water become a financial burden on residents. To address these concerns, the EPA developed the "Combined Sewer Overflows: Guidance for Financial Capability Assessment (FCA) and Schedule Development" (EPA 832-B-97-004).

The FCA framework identifies the key elements the EPA uses in working with permittees to evaluate how their financial capability should influence compliance schedules. It does not exempt permittees from compliance. A two-phased approach considers both ratepayers and municipalities:

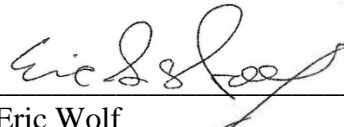
- Ratepayers. The residential share of CWA obligations is compared to the median household income (MHI). The FCA recommends capping total water expenditures at 4.5% of MHI.
- Municipality. FCA assesses the financial strength of the permittee.


Staff and the Water Policy Committee believe the EPA's FCA approach is fair, thorough, and appropriate. However, California is governed by the 1969 Porter-Cologne Act and not subject to direct regulation by the EPA. Therefore, FCA does not apply to our permitting process.

REPORT

On February 17, 2017, Senator Dr. Ed Hernandez introduced legislation that would require a Regional Water Board and the State Water Board to establish schedules for compliance with water quality objectives only after consideration of a financial capability analysis, similar to the EPA's FCA framework. The analysis must include, among other things, a consideration of the financial burden to individual customers and the permittee's financial strength. The bill would require the Water Boards to renegotiate a schedule for compliance if the financial burden to individual customers is high.

Staff is recommending that the Governing Board support SB 589.

Prepared by: 
Eric Wolf
Senior Management Analyst

Approved by: 
Marisa Creter
Assistant Executive Director

ATTACHMENT

Attachment A – SB 589 (Hernandez)
Attachment B – Resolution 17-06

Introduced by Senator HernandezFebruary 17, 2017

An act to add Section 13263.8 to the Water Code, relating to water quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 589, as introduced, Hernandez. Municipal separate storm sewer systems: financial capability analysis.

Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for the discharge of stormwater in accordance with the federal national pollutant discharge elimination system permit program. Existing law requires the state board or the regional boards to issue waste discharge requirements that apply and ensure compliance with the federal Clean Water Act and any more stringent effluent standards or limitations necessary to implement water quality control plans, or for the protection of beneficial uses, or to prevent nuisance.

This bill would require a regional board or the state board, when approving a municipal separate storm sewer system permit, to establish schedules for compliance with water quality objectives in water quality control plans after consideration of a financial capability analysis, that includes, among other things, a consideration of the financial burden to individual customers and the permittee's financial strength, as prescribed. The bill would require a regional board or the state board to renegotiate a schedule for compliance, alternative compliance pathways, or both if the financial burden to individual customers is high, as prescribed. The bill would require the regional board or state board to consider if the permittee's financial strength is weak in negotiating schedules for compliance and consideration of alternative

compliance pathways. The bill would authorize the regional board or state board to revise an existing schedule for compliance if the board finds certain extraordinary stressors.

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

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

1 SECTION 1. The Legislature finds and declares as follows:

2 (a) On November 24, 2014, the federal Environmental Protection
3 Agency, Office of Enforcement and Compliance Assurance,
4 announced it had adopted a refined financial capability assessment
5 framework to aid in negotiating schedules for compliance with the
6 municipal federal Clean Water Act requirements and in developing
7 integrated management plans.

8 (b) The financial capability assessment framework does not
9 alter or waive water quality standards, but offers alternative
10 compliance pathways to municipal separate storm sewer system
11 permittees and achievable schedules for compliance for
12 disadvantaged communities.

13 (c) A financial capability assessment is necessary to set
14 achievable schedules for water quality objectives in water quality
15 control plans under the Porter-Cologne Water Quality Control Act
16 (Division 7 (commencing with Section 13000) of the Water Code)
17 and to develop integrated regional water management plans.

18 SEC. 2. Section 13263.8 is added to the Water Code, to read:

19 13263.8. (a) When approving a municipal separate storm sewer
20 system permit, a regional board and the state board shall establish
21 schedules for compliance with water quality objectives in water
22 quality control plans after consideration of a financial capability
23 analysis.

24 (b) As used in this section:

25 (1) “Financial strength indicator” means the municipal separate
26 storm sewer system permittee’s financial strength, taking into
27 consideration metrics in the categories of debt indicators,
28 socioeconomic indicators, and financial management indicators
29 as described in paragraph (3) of subdivision (c).

30 (2) “Residential indicator” means the financial burden to
31 individual customers as described in paragraph (1) of subdivision

32 (c). Two percent to 3.24 percent, inclusive, is a low burden, 3.25

1 percent to 4.4 percent, inclusive, is a midrange burden, and 4.5
2 percent or higher is a high burden.

3 (c) A financial capability analysis shall consider the residential
4 indicator, residential impacts, and the financial strength indicator
5 as follows:

6 (1) The residential indicator shall assess the annual costs that
7 would be borne by residential households for water, flood control,
8 wastewater, compliance with this division, and municipal separate
9 storm sewer system permit-related expenses by dividing these
10 annual costs by the number of households. The residential share
11 of the annual costs of these obligations shall then be compared to
12 the mean household income of the service area. The mean
13 household income shall be calculated using current census data
14 and may be adjusted based on the current Consumer Price Index.
15 The compliance costs per household shall then be divided by the
16 adjusted mean household income to calculate the residential
17 indicator.

18 (2) Where available, the following residential impact information
19 shall be considered:

- 20 (A) Income distribution.
- 21 (B) Poverty rates.
- 22 (C) Sewer and stormwater fees.
- 23 (D) Flood control costs.
- 24 (E) Water rates as a percentage of household income.
- 25 (F) Flood control.
- 26 (G) Sewer and water usage for classes of ratepayers or by type
27 of dwelling unit.
- 28 (H) The percent of households that own versus rent.
- 29 (I) The housing cost burden of the population.
- 30 (J) Average utility costs.
- 31 (K) Mortgage and insurance costs.
- 32 (L) The cost of living in the community.

33 (3) The financial strength indicator shall rate a municipal
34 separate storm sewer system permittee as weak, midrange, or strong
35 after consideration of the following factors:

- 36 (A) Bond ratings, except that bond ratings shall not be the sole
37 basis for evaluating financial capability.
- 38 (B) Service area unemployment data and trends, or other labor
39 market indicators, including unemployment on an absolute basis.

- 1 (C) Median household income, except that median household
- 2 income shall not be the sole consideration.
- 3 (D) Property tax revenue collection rates and the revenue
- 4 collection rate of the permittee’s system.
- 5 (4) Consideration of the following factors, as applicable:
- 6 (A) Rate or revenue models, including, but not limited to,
- 7 dynamic financial planning models showing the projections of
- 8 impacts over the program period. All revenue sources tied to the
- 9 permit obligations may be included as appropriate.
- 10 (B) Rate determination studies used to develop and support rate
- 11 increases.
- 12 (C) Historical population trends or population projections.
- 13 (D) State or local legal restrictions or limitations on property
- 14 taxes, other revenue streams, or debt levels.
- 15 (E) If available, anonymized data and trends on late payments,
- 16 disconnection notices, service terminations, uncollectible accounts,
- 17 or revenue collection rates.
- 18 (F) Historical increases in rates or other dedicated revenue
- 19 streams.
- 20 (G) Other costs or financial obligations, including, but not
- 21 limited to, those that relate to drinking water or other infrastructure
- 22 that significantly affect a municipal separate storm sewer system
- 23 permittee’s ability to raise revenue.
- 24 (H) Circumstances that may affect a municipal separate storm
- 25 sewer system permittee’s bond rating.
- 26 (I) Financial plans that show the implications of incurring
- 27 additional debt for a municipal separate storm sewer system
- 28 permittee’s ability to secure financing, including projections of
- 29 metrics such as debt ratios, debt service coverage, debt per
- 30 customer, days of cash on hand, days of working capital, and other
- 31 metrics used by rating agencies. This data should be benchmarked
- 32 to metrics such as rating agency medians and relative to similar
- 33 entities. This will be especially relevant where the municipal
- 34 separate storm sewer system permittee does not have a bond rating.
- 35 (J) Extraordinary stressors such as those from natural disasters,
- 36 municipal bankruptcies, unusual capital market conditions, or other
- 37 situations that impact a municipal separate storm sewer system
- 38 permittee’s ability to raise revenue or acquire needed financing.
- 39 (5) The cost to the community of compliance, including, but
- 40 not limited to, the residential impact, with the municipal separate

1 storm sewer system permit, watershed management plan, integrated
2 or enhanced watershed management plan, the federal Clean Water
3 Act (33 U.S.C. Sec. 1251 et seq.), the California Safe Drinking
4 Water Act (Chapter 4 (commencing with Section 116270) of Part
5 12 of Division 104 of the Health and Safety Code), and this
6 division.

7 (6) The relative effectiveness and benefits of water quality
8 improvements.

9 (7) The reasonableness of the schedule for compliance and time
10 within which the municipal separate storm sewer system permittee
11 is required to achieve water quality objectives and comply with
12 permit requirements.

13 (8) A municipal separate storm sewer system permittee's current
14 municipal separate storm sewer system infrastructure, its function,
15 and its condition.

16 (9) Studies a city, a municipal separate storm sewer system
17 permittee, or a municipal separate storm sewer system permit
18 applicant would like to submit for consideration, including, but
19 not limited to, rate studies in support of the residential indicator
20 or financial strength indicator. The cost, if any, associated with
21 the development of any study submitted pursuant to this paragraph
22 shall be borne by the city, permittee, or applicant.

23 (d) (1) If the residential indicator finds a high burden, the
24 regional board or state board shall renegotiate a schedule for
25 compliance, alternative compliance pathways, or both, so that the
26 residential indicator shall result in a low burden or midrange
27 burden.

28 (2) If the financial strength indicator finds a weak condition,
29 the regional board or state board shall consider this condition in
30 negotiating schedules for compliance and consideration of
31 alternative compliance pathways.

32 (3) If an extraordinary stressor as described in subparagraph (J)
33 of paragraph (4) of subdivision (c) is found, the regional board or
34 state board may revise an existing schedule for compliance.

O

RESOLUTION 17-06

**A RESOLUTION OF THE GOVERNING BOARD OF THE SAN GABRIEL
VALLEY COUNCIL OF GOVERNMENTS (“SGVCOG”)
SUPPORTING SB 589 (HERNANDEZ)**

WHEREAS, as programs are implemented to improve water quality and attain Clean Water Act (CWA) objectives, local governments find themselves facing difficult economic challenges,

WHEREAS, in some cases, the regulatory costs associated with water become a financial burden on residents,

WHEREAS, the Environmental Protection Agency’s (EPA) Financial Capability Assessment (FCA) is a framework for assessing a community’s ability to finance water-related capital infrastructure and the ability of individual utility customers to pay for water services without undue hardship,

WHEREAS, the FCA framework does not exempt permittees from compliance but instead, identifies the key elements the EPA uses in working with permittees to evaluate how their financial capability should influence compliance schedules,

WHEREAS, California is governed by the 1969 Porter-Cologne Act and not subject to direct regulation by the EPA and therefore, FCA does not currently apply to our permitting process,

WHEREAS, SB 589 (Hernandez) would require a Regional Water Board and the State Water Board to establish schedules for compliance with water quality objectives only after consideration of a financial capability analysis.

**NOW, THEREFORE BE IT RESOLVED THAT THE GOVERNING BOARD OF THE
SGVCOG SUPPORTS SB 589 (HERNANDEZ)**

PASSED, APPROVED, and ADOPTED this 16th day of March, 2017.

SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS

By: _____

Gene Murabito, President

Attest:

I, Philip A. Hawkey, Executive Director and Secretary of the Board of Directors of the San Gabriel Valley Council of Governments, do hereby certify that Resolution 17-06 was adopted at a regular

meeting of the Governing Board held on the 16th day of March, 2017, by the following roll call vote:

AYES:	
NOES:	
ABSTAIN:	
ABSENT:	

Philip A. Hawkey, Secretary

REPORT

DATE: March 15, 2017
TO: Water Policy Committee
FROM: Phil Hawkey, Executive Director
RE: **SUPPORT OF SB 541 (ALLEN)**

RECOMMENDED ACTION

Recommend Governing Board Support SB 541

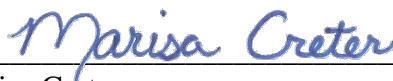
BACKGROUND

At the January 2017, Governing Board meeting, members adopted Resolution 16-31 identifying stormwater legislative priorities for 2017 and directing the Water Committee to engage with State and Federal legislators to support these priorities. Since then, committee members have drafted initial state legislation and engaged with San Gabriel Valley representatives who have agreed to sponsor legislation. As a result of these efforts, several bills have been introduced. One of the bills is SB 541 (Allen).

On February 16, 2017, Senator Ben Allen introduced legislation that would require several state agencies, including the Department of Education, to consult and recommend best design practices that include water capture design standards for all new, reconstructed, or altered public schools, including school grounds. These recommendations are to be reported the Governor and the Legislature on or before January 1, 2019.

Staff is recommending support for this legislation.

Prepared by: 
Eric Wolf
Senior Management Analyst

Approved by: 
Marisa Creter
Assistant Executive Director

ATTACHMENT

Attachment A – SB 541 (Allen)

Introduced by Senator AllenFebruary 16, 2017

An act to add Section 17255.5 to the Education Code, relating to school facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 541, as introduced, Allen. School facilities: water capture design standards.

Existing law requires the Energy Resources Conservation and Development Commission, in consultation with the State Department of Education and the Division of the State Architect and the Office of Public School Construction within the Department of General Services, to recommend best design practices that include energy efficiency measures for all new public schools, and to report the recommendations to the Governor and the Legislature by October 1, 2003.

This bill would require the State Department of Education, the State Water Resources Control Board, and the Division of the State Architect and the Office of Public School Construction within in the Department of General Services, to consult and recommend best design practices that include water capture design standards for all new, reconstructed, or altered public schools, including school grounds. The bill would require these recommendations to be reported to the Governor and the Legislature on or before January 1, 2019. The bill would define "water capture" for these purposes.

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

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

1 SECTION 1. Section 17255.5 is added to the Education Code,
2 to read:
3 17255.5. (a) The State Department of Education, the State
4 Water Resources Control Board, and the Division of the State
5 Architect and the Office of Public School Construction within the
6 Department of General Services, shall consult and recommend
7 best design practices that include water capture design standards
8 for all new, reconstructed, or altered public schools, including
9 school grounds.
10 (b) These recommendations shall be reported to the Governor
11 and the Legislature on or before January 1, 2019.
12 (c) For purposes of this section “water capture” means to control
13 water pollutants, pollutant loads, and water runoff volume to the
14 maximum extent feasible by minimizing impervious surface area
15 and controlling runoff from impervious surfaces through
16 infiltration, evapotranspiration, bio-retention, and rainfall harvest
17 and use. Water capture may be used in open space, parks, fields,
18 rooftops, streetscapes, parking lots, sidewalks, and medians.
19 (d) (1) The reporting requirement pursuant to subdivision (b)
20 shall be inoperative on January 1, 2023, pursuant to Section
21 10231.5 of the Government Code.
22 (2) A report submitted by the Legislature pursuant to subdivision
23 (b) shall be submitted in compliance with Section 9795 of the
24 Government Code.

O

REPORT

DATE: March 15, 2017
TO: Water Policy Committee
Governing Board
FROM: Phil Hawkey, Executive Director
RE: **SUPPORT OF AB 1180 (HOLDEN)**

RECOMMENDED ACTION

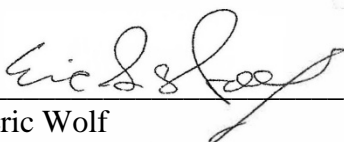
Recommend Governing Board support AB 1180 (Holden)

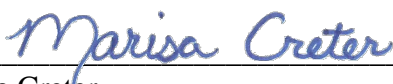
BACKGROUND

At the January 2017, Governing Board meeting, members adopted Resolution 16-31 identifying stormwater legislative priorities for 2017 and directing the Water Committee to engage with State and Federal legislators to support these priorities. Since then, committee members have drafted initial state legislation and engaged with San Gabriel Valley representatives who have agreed to sponsor legislation. As a result of these efforts, several bills have been introduced. One bill, AB 1180 (Holden) would increase the tire recycling fee and the money would be used for stormwater cleanup.

Currently, the California Tire Recycling Act requires a person who purchases a new tire to pay \$1.75 per tire, for purposes related to air quality and tire recycling. This bill would increase the tire fee by \$1.50 to be deposited in the Stormwater Permit Compliance Fund, which would be established by the bill. The money would be available to the State Water Resource Control Board for issuance as competitive grants for projects and programs for municipal storm sewer system permit compliance for the remediation of zinc pollutants caused by tires.

Staff is recommending that the Governing Board support AB 1180 (Holden).

Prepared by: 
Eric Wolf
Senior Management Analyst

Approved by: 
Marisa Creter
Assistant Executive Director

ATTACHMENT

Attachment A – AB 1180 (Holden)

ASSEMBLY BILL

No. 1180

Introduced by Assembly Member Holden

February 17, 2017

An act to amend Sections 42885 and 42889 of, and to add Section 42888.5 to, the Public Resources Code, relating to tires, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1180, as introduced, Holden. California tire fee: Stormwater Permit Compliance Fund.

The California Tire Recycling Act, until January 1, 2024, requires a person who purchases a new tire to pay a California tire fee of \$1.75 per tire, for deposit, except for 1 ½% retained by retailers and as provided below, in the California Tire Recycling Management Fund, for expenditure by the Department of Resources Recycling and Recovery upon appropriation by the Legislature for prescribed purposes related to disposal and use of used tires. Commencing January 1, 2024, existing law reduces the California tire fee to \$0.75 per tire and changes the retailers, share to 3%.

Existing law, until January 1, 2024, requires that \$0.75 per tire on which the California tire fee is imposed be deposited in the Air Pollution Control Fund with these moneys to be available upon appropriation by the Legislature for use by the State Air Resources Board and local air districts to fund programs and projects that mitigate or remediate air pollution caused by tires in the state, as provided.

This bill would increase the California tire fee by \$1.50. The bill would deposit the additional moneys in the Stormwater Permit

Compliance Fund, which would be established by the bill, and would make the moneys available to the State Water Resources Control Board Division of Financial Assistance. The bill would continuously appropriate moneys in the fund for competitive grants for projects and programs for municipal storm sewer system permit compliance requirements that would prevent or remediate zinc pollutants caused by tires in the state and for an annual audit of the fund. Money in the fund would be available upon appropriation for the administrative expenses of the fund, not to exceed 3% of the overall revenue annually deposited in the fund, except as specified.

This bill would make conforming changes.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 42885 of the Public Resources Code, as
 2 amended by Section 31 of Chapter 401 of the Statutes of 2013, is
 3 amended to read:

4 42885. (a) For purposes of this section, “California tire fee”
 5 means the fee imposed pursuant to this section.

6 (b) (1) A person who purchases a new tire, as defined in
 7 subdivision (g), shall pay a California tire fee of ~~one dollar and~~
 8 ~~seventy-five cents (\$1.75)~~ *three dollars and twenty-five cents*
 9 *(\$3.25)* per tire.

10 (2) The retail seller shall charge the retail purchaser the amount
 11 of the California tire fee as a charge that is separate from, and not
 12 included in, any other fee, charge, or other amount paid by the
 13 retail purchaser.

14 (3) (A) The retail seller shall collect the California tire fee from
 15 the retail purchaser at the time of sale and may retain 1 ½ percent
 16 of the fee as reimbursement for any costs associated with the
 17 collection of the fee. ~~The~~

18 (B) *The* retail seller shall remit the remainder to the state on a
 19 quarterly schedule for deposit in the California Tire Recycling
 20 Management Fund, which is hereby created in the State ~~Treasury.~~
 21 *Treasury, the Air Pollution Control Fund, and the Stormwater*
 22 *Permit Compliance Fund, established pursuant to Section 42888.5.*

1 *Of this amount, for each tire subject to the California Tire Fee,*
2 *seventy-five cents (\$0.75) shall be deposited in the Air Pollution*
3 *Control Fund pursuant to Section 42889, one dollar and fifty cents*
4 *(\$1.50) shall be deposited in the Stormwater Permit Compliance*
5 *Fund, and the balance shall be deposited in the California Tire*
6 *Recycling Management Fund.*

7 (c) The department, or its agent authorized pursuant to Section
8 42882, shall be reimbursed for its costs of collection, auditing, and
9 making refunds associated with the California Tire Recycling
10 Management Fund, but not to exceed 3 percent of the total annual
11 revenue deposited in the fund.

12 (d) The California tire fee imposed pursuant to subdivision (b)
13 shall be separately stated by the retail seller on the invoice given
14 to the customer at the time of sale. Any other disposal or
15 transaction fee charged by the retail seller related to the tire
16 purchase shall be identified separately from the California tire fee.

17 (e) A person or business ~~who~~ *that* knowingly, or with reckless
18 disregard, makes a false statement or representation in a document
19 used to comply with this section is liable for a civil penalty for
20 each violation or, for continuing violations, for each day that the
21 violation continues. Liability under this section may be imposed
22 in a civil action and shall not exceed twenty-five thousand dollars
23 (\$25,000) for each violation.

24 (f) In addition to the civil penalty that may be imposed pursuant
25 to subdivision (e), the department may impose an administrative
26 penalty in an amount not to exceed five thousand dollars (\$5,000)
27 for each violation of a separate provision or, for continuing
28 violations, for each day that the violation continues, on a person
29 who intentionally or negligently violates a permit, rule, regulation,
30 standard, or requirement issued or adopted pursuant to this chapter.
31 The department shall adopt regulations that specify the amount of
32 the administrative penalty and the procedure for imposing an
33 administrative penalty pursuant to this subdivision.

34 (g) For purposes of this section, “new tire” means a pneumatic
35 or solid tire intended for use with ~~on-road~~ *on-road* or off-road motor
36 vehicles, motorized equipment, construction equipment, or farm
37 equipment that is sold separately from the motorized equipment,
38 or a new tire sold with a new or used motor vehicle, as defined in
39 Section 42803.5, including the spare tire, construction equipment,

1 or farm equipment. “New tire” does not include retreaded, reused,
 2 or recycled tires.

3 (h) The California tire fee shall not be imposed on a tire sold
 4 with, or sold separately for use on, any of the following:

- 5 (1) A self-propelled wheelchair.
- 6 (2) A motorized tricycle or motorized quadricycle, as defined
 7 in Section 407 of the Vehicle Code.
- 8 (3) A vehicle that is similar to a motorized tricycle or motorized
 9 quadricycle and is designed to be operated by a person who, by
 10 reason of the person’s physical disability, is otherwise unable to
 11 move about as a pedestrian.

12 (i) ~~This section shall remain in effect only until January 1, 2024,~~
 13 ~~and as of that date is repealed, unless a later enacted statute, that~~
 14 ~~is enacted before January 1, 2024, deletes or extends that date.~~

15 *This section shall remain in effect only until January 1, 2024,*
 16 *and as of that date is repealed, unless a later enacted statute that*
 17 *is enacted before January 1, 2024, deletes or extends that date.*

18 SEC. 2. Section 42885 of the Public Resources Code, as
 19 amended by Section 32 of Chapter 401 of the Statutes of 2013, is
 20 amended to read:

21 42885. (a) For purposes of this section, “California tire fee”
 22 means the fee imposed pursuant to this section.

23 (b) (1) ~~Every~~ A person who purchases a new tire, as defined in
 24 subdivision (g), shall pay a California tire fee of ~~seventy-five cents~~
 25 ~~(\$0.75)~~ *two dollars and twenty-five cents (\$2.25)* per tire.

26 (2) The retail seller shall charge the retail purchaser the amount
 27 of the California tire fee as a charge that is separate from, and not
 28 included in, any other fee, charge, or other amount paid by the
 29 retail purchaser.

30 (3) (A) The retail seller shall collect the California tire fee from
 31 the retail purchaser at the time of sale and may retain 3 percent of
 32 the fee as reimbursement for any costs associated with the
 33 collection of the fee. ~~The~~

34 (B) *The* retail seller shall remit the remainder to the state on a
 35 quarterly schedule for deposit in the California Tire Recycling
 36 Management Fund, which is hereby created in the State ~~Treasury.~~
 37 *Treasury, and the Stormwater Permit Compliance Fund,*
 38 *established pursuant to Section 42888.5. Of this amount, for each*
 39 *tire subject to the California Tire Fee, one dollar and fifty cents*
 40 *(\$1.50) shall be deposited in the Stormwater Permit Compliance*

1 *Fund and the balance shall be deposited in the California Tire*
2 *Recycling Management Fund.*

3 (c) The department, or its agent authorized pursuant to Section
4 42882, shall be reimbursed for its costs of collection, auditing, and
5 making refunds associated with the California Tire Recycling
6 Management Fund, but not to exceed 3 percent of the total annual
7 revenue deposited in the fund.

8 (d) The California tire fee imposed pursuant to subdivision (b)
9 shall be separately stated by the retail seller on the invoice given
10 to the customer at the time of sale. Any other disposal or
11 transaction fee charged by the retail seller related to the tire
12 purchase shall be identified separately from the California tire fee.

13 (e) ~~Any~~ A person or business ~~who~~ *that* knowingly, or with
14 reckless disregard, makes ~~any~~ a false statement or representation
15 in ~~any~~ a document used to comply with this section is liable for a
16 civil penalty for each violation or, for continuing violations, for
17 each day that the violation continues. Liability under this section
18 may be imposed in a civil action and shall not exceed twenty-five
19 thousand dollars (\$25,000) for each violation.

20 (f) In addition to the civil penalty that may be imposed pursuant
21 to subdivision (e), the department may impose an administrative
22 penalty in an amount not to exceed five thousand dollars (\$5,000)
23 for each violation of a separate provision or, for continuing
24 violations, for each day that the violation continues, on ~~any~~ a
25 person who intentionally or negligently violates ~~any~~ a permit, rule,
26 regulation, standard, or requirement issued or adopted pursuant to
27 this chapter. The department shall adopt regulations that specify
28 the amount of the administrative penalty and the procedure for
29 imposing an administrative penalty pursuant to this subdivision.

30 (g) For purposes of this section, “new tire” means a pneumatic
31 or solid tire intended for use with ~~on-road~~ *on-road* or off-road motor
32 vehicles, motorized equipment, construction equipment, or farm
33 equipment that is sold separately from the motorized equipment,
34 or a new tire sold with a new or used motor vehicle, as defined in
35 Section 42803.5, including the spare tire, construction equipment,
36 or farm equipment. “New tire” does not include retreaded, reused,
37 or recycled tires.

38 (h) The California tire fee ~~may~~ *shall* not be imposed on ~~any~~ a
39 tire sold with, or sold separately for use on, any of the following:

40 (1) ~~Any~~ A self-propelled wheelchair.

1 (2) ~~Any~~A motorized tricycle or motorized quadricycle, as
2 defined in Section 407 of the Vehicle Code.

3 (3) ~~Any~~A vehicle that is similar to a motorized tricycle or
4 motorized quadricycle and is designed to be operated by a person
5 who, by reason of the person’s physical disability, is otherwise
6 unable to move about as a pedestrian.

7 (i) This section shall become operative on January 1, 2024.

8 SEC. 3. Section 42888.5 is added to the Public Resources Code,
9 to read:

10 42888.5. (a) The Stormwater Permit Compliance Fund is
11 hereby established in the State Treasury. Moneys in the Stormwater
12 Permit Compliance Fund shall be available to the State Water
13 Resources Control Board Division of Financial Assistance as
14 follows:

15 (1) Notwithstanding Section 13340 of the Government Code,
16 moneys in the fund shall be continuously appropriated, without
17 regard to fiscal year, for the following purposes:

18 (A) Competitive grants to fund projects and programs for
19 municipal separate storm sewer system permit compliance
20 requirements that would prevent or remediate zinc pollutants
21 caused by tires in the state. Grants that are issued under this
22 subparagraph shall address zinc impairments and zinc total
23 maximum daily loads under the federal Clean Water Act (33 U.S.C.
24 Sec. 1251), and priority shall be given to applicants with zinc levels
25 that exceed the total maximum daily loads. Grants issued under
26 this subparagraph are authorized for the development,
27 administration, and operation of a program to fund a municipal
28 permittee’s compliance with municipal separate storm sewer
29 system permit requirements and the costs associated with that
30 program.

31 (B) An annual audit of the Stormwater Permit Compliance Fund
32 on the financial status of the Stormwater Permit Compliance Fund
33 as of June 30. The audit shall be submitted to the State Water
34 Resources Control Board and shall be posted on the State Water
35 Resources Control Board’s Division of Financial Assistance
36 Internet Web site.

37 (2) Moneys in the fund shall be available upon appropriation
38 by the Legislature for the administrative overhead cost of the
39 Stormwater Permit Compliance Fund, not to exceed 3 percent of
40 the total revenue deposited in the Stormwater Permit Compliance

1 Fund annually, or an amount otherwise specified in the annual
 2 Budget Act. If moneys for administrative expenses are not timely
 3 appropriated, those expenses shall be advanced from the
 4 Stormwater Permit Compliance Fund. Expenses advanced pursuant
 5 to this paragraph shall be reimbursed in full to the Stormwater
 6 Permit Compliance Fund upon enactment of an annual Budget Act
 7 that appropriates those moneys.

8 (b) Except as provided in paragraph (2) of subdivision (a),
 9 moneys in the fund shall not be used or borrowed for any other
 10 purpose.

11 SEC. 4. Section 42889 of the Public Resources Code, as
 12 amended by Section 152 of Chapter 35 of the Statutes of 2014, is
 13 amended to read:

14 42889. (a) Of the moneys collected pursuant to *subparagraph*
 15 *(B) of paragraph (3) of subdivision (b) of Section 42885, an amount*
 16 *equal to seventy-five cents (\$0.75) per tire on which the fee is*
 17 *imposed the amount designated there for deposit in the Air*
 18 *Pollution Control Fund shall be transferred by the State Board of*
 19 *Equalization to the Air Pollution Control Fund; that fund. The state*
 20 *board shall expend those moneys, or allocate those moneys to the*
 21 *districts for expenditure, to fund programs and projects that*
 22 *mitigate or remediate air pollution caused by tires in the state, to*
 23 *the extent that the state board or the applicable district determines*
 24 *that the program or project remediates air pollution harms created*
 25 *by tires upon which the fee described in Section 42885 is imposed.*

26 (b) ~~The remaining moneys collected~~ *remitted* pursuant to
 27 *subparagraph (B) of paragraph (3) of subdivision (b) of Section*
 28 *42885 that are designated for deposit in the California Tire*
 29 *Recycling Management Fund shall be used to fund the waste tire*
 30 *program, and shall be appropriated to the department in the annual*
 31 *Budget Act in a manner consistent with the five-year plan adopted*
 32 *and updated by the department. These moneys shall be expended*
 33 *for the payment of refunds under this chapter and for the following*
 34 *purposes:*

35 (1) To pay the administrative overhead cost of this chapter, not
 36 to exceed 6 percent of the total revenue deposited in the fund
 37 annually, or an amount otherwise specified in the annual Budget
 38 Act.

39 (2) To pay the costs of administration associated with collection,
 40 making refunds, and auditing revenues in the fund, not to exceed

1 3 percent of the total revenue deposited in the fund, as provided
2 in subdivision (c) of Section 42885.

3 (3) To pay the costs associated with operating the tire recycling
4 program specified in Article 3 (commencing with Section 42870).

5 (4) To pay the costs associated with the development and
6 enforcement of regulations relating to the storage of waste tires
7 and used tires. The department shall consider designating a city,
8 county, or city and county as the enforcement authority of
9 regulations relating to the storage of waste tires and used tires, as
10 provided in subdivision (c) of Section 42850, and regulations
11 relating to the hauling of waste and used tires, as provided in
12 subdivision (b) of Section 42963. If the department designates a
13 local entity for that purpose, the department shall provide sufficient,
14 stable, and noncompetitive funding to that entity for that purpose,
15 based on available resources, as provided in the five-year plan
16 adopted and updated as provided in subdivision (a) of Section
17 42885.5. The department may consider and create, as appropriate,
18 financial incentives for citizens who report the illegal hauling or
19 disposal of waste tires as a means of enhancing local and statewide
20 waste tire and used tire enforcement programs.

21 (5) To pay the costs of cleanup, abatement, removal, or other
22 remedial action related to waste tire stockpiles throughout the state,
23 including all approved costs incurred by other public agencies
24 involved in these activities by contract with the department. Not
25 less than six million five hundred thousand dollars (\$6,500,000)
26 shall be expended by the department during each of the following
27 fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

28 (6) To make studies and conduct research directed at promoting
29 and developing alternatives to the landfill disposal of waste tires.

30 (7) To assist in developing markets and new technologies for
31 used tires and waste tires. The department’s expenditure of funds
32 for purposes of this subdivision shall reflect the priorities for waste
33 management practices specified in subdivision (a) of Section
34 40051.

35 (8) To pay the costs associated with implementing and operating
36 a waste tire and used tire hauler program and manifest system
37 pursuant to Chapter 19 (commencing with Section 42950).

38 (9) To pay the costs to create and maintain an emergency
39 reserve, which shall not exceed one million dollars (\$1,000,000).

1 (10) To pay the costs of cleanup, abatement, or other remedial
2 action related to the disposal of waste tires in implementing and
3 operating the Farm and Ranch Solid Waste Cleanup and Abatement
4 Grant Program established pursuant to Chapter 2.5 (commencing
5 with Section 48100) of Part 7.

6 (11) To fund border region activities specified in paragraph (8)
7 of subdivision (b) of Section 42885.5.

8 (12) For expenditure pursuant to paragraph (3) of subdivision
9 (a) of, and paragraph (3) of subdivision (b) of, Section 17001.

10 (c) This section shall remain in effect only until January 1, 2024,
11 and as of that date is repealed, unless a later enacted statute that
12 is enacted before January 1, 2024, deletes or extends that date.

13 SEC. 5. Section 42889 of the Public Resources Code, as
14 amended by Section 153 of Chapter 35 of the Statutes of 2014, is
15 amended to read:

16 ~~42889. Funding for~~ *The moneys remitted pursuant to*
17 *subparagraph (B) of paragraph (3) of subdivision (b) of Section*
18 *42885 that are not for deposit in the Stormwater Permit*
19 *Compliance Fund shall be used to fund the waste tire program and*
20 *shall be appropriated to the department in the annual Budget Act.*
21 *The moneys in the fund shall be expended for the payment of*
22 *refunds under this chapter and for the following purposes:*

23 (a) To pay the administrative overhead cost of this chapter, not
24 to exceed 5 percent of the total revenue deposited in the fund
25 annually, or an amount otherwise specified in the annual Budget
26 Act.

27 (b) To pay the costs of administration associated with collection,
28 making refunds, and auditing revenues in the fund, not to exceed
29 3 percent of the total revenue deposited in the fund, as provided
30 in subdivision ~~(b)~~ (c) of Section 42885.

31 (c) To pay the costs associated with operating the tire recycling
32 program specified in Article 3 (commencing with Section 42870).

33 (d) To pay the costs associated with the development and
34 enforcement of regulations relating to the storage of waste tires
35 and used tires. The department shall consider designating a city,
36 county, or city and county as the enforcement authority of
37 regulations relating to the storage of waste tires and used tires, as
38 provided in subdivision (c) of Section 42850, and regulations
39 relating to the hauling of waste and used tires, as provided in
40 subdivision (b) of Section 42963. If the department designates a

1 local entity for that purpose, the department shall provide sufficient,
 2 stable, and noncompetitive funding to that entity for that purpose,
 3 based on available resources, as provided in the five-year plan
 4 adopted and updated as provided in subdivision (a) of Section
 5 42885.5. The department may consider and create, as appropriate,
 6 financial incentives for citizens who report the illegal hauling or
 7 disposal of waste tires as a means of enhancing local and statewide
 8 waste tire and used tire enforcement programs.

9 (e) To pay the costs of cleanup, abatement, removal, or other
 10 remedial action related to waste tire stockpiles throughout the state,
 11 including all approved costs incurred by other public agencies
 12 involved in these activities by contract with the department. Not
 13 less than six million five hundred thousand dollars (\$6,500,000)
 14 shall be expended by the department during each of the following
 15 fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

16 (f) To fund border region activities specified in paragraph (8)
 17 of subdivision (b) of Section 42885.5.

18 (g) For expenditure pursuant to paragraph (3) of subdivision (a)
 19 of, and paragraph (3) of subdivision (b) of, Section 17001.

20 (h) This section shall become operative on January 1, 2024.

21 SEC. 6. This act is an urgency statute necessary for the
 22 immediate preservation of the public peace, health, or safety within
 23 the meaning of Article IV of the California Constitution and shall
 24 go into immediate effect. The facts constituting the necessity are:

25 To help grant recipients achieve municipal separate storm sewer
 26 system permit compliance requirements that would prevent or
 27 remediate zinc pollutants caused by tires in the state at the earliest
 28 possible time, it is necessary that this act ~~shall~~ take effect
 29 immediately.

O

MEMORANDUM

DATE: March 15, 2017
TO: Water Policy Committee
FROM: Phil Hawkey, Executive Director
RE: **DISCUSSION OF SB 231**

RECOMMENDED ACTION

Postpone discussion/action until the April Water Policy Committee meeting.

BACKGROUND

On February 2, 2017, Senator Robert Hertzberg introduced SB 231 (Hertzberg) relating to Section 53750 of Government Code, proposing to change the California Constitution. The California Constitution requires that assessments, fees, and charges for “water, sewer, and refuse collection” be submitted to property owners for approval or rejection after the provision of written notice and the holding of a public hearing. Proposition 218, prescribed specific procedures for local jurisdictions to comply with this process.

SB 231 would redefine the term “sewer” to include storm sewer systems by inclusion of the following paragraph in Section 53751 of the Government Code:

“Sewer” means services and systems provided by all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate sewage collection, treatment, or disposition for sanitary or drainage purposes, including lateral and connecting sewers, interceptors, trunk and outfall lines, sanitary sewage treatment or disposal plants or works, drains, conduits, outlets for surface or storm waters, and any and all other works, property, or structures necessary or convenient for the collection or disposal of sewage, industrial waste, or surface or storm waters. “Sewer system” shall not include a sewer system that merely collects sewage on the property of a single owner.

Previous discussion by Water Policy Committee members raised objections to this bill based on a belief that it ignores the will of voters who approved Proposition 218. At the February meeting, members asked to have SB 231 as an agenda item for discussion and/or action on the March agenda but unfortunately, some members of the committee have schedule conflicts and cannot attend the March meeting.

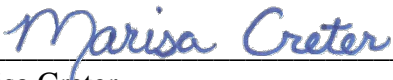
Due to the strong positions of some committee members, staff is recommending that the Water Policy Committee postpone discussion of SB 231 until the April meeting, when all members can be present.

MEMORANDUM

Prepared by: _____


Eric Wolf
Senior Management Analyst

Approved by: _____


Marisa Creter
Assistant Executive Director

ATTACHMENT

Attachment A – SB 231 (Hertzberg)

Introduced by Senator Hertzberg

February 2, 2017

An act to amend Section 53750 of, and to add Section 53751 to, the Government Code, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

SB 231, as introduced, Hertzberg. Local government: 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 terms for these purposes.

This bill would define the term “sewer” for these purposes. The bill would also make findings and declarations relating to the definition of the term “sewer” for these purposes.

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. Section 53750 of the Government Code is
2 amended to read:
3 53750. For purposes of Article XIII C and Article XIII D of
4 the California Constitution and this ~~article~~: *article, the following*
5 *words have the following meanings, and shall be read and*

1 *interpreted in light of the findings and declarations contained in*
2 *Section 53751:*

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

6 (b) “Assessment” means any levy or charge by an agency upon
7 real property that is based upon the special benefit conferred upon
8 the real property by a public improvement or service, that is
9 imposed to pay the capital cost of the public improvement, the
10 maintenance and operation expenses of the public improvement,
11 or the cost of the service being provided. “Assessment” includes,
12 but is not limited to, “special assessment,” “benefit assessment,”
13 “maintenance assessment,” and “special assessment tax.”

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

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

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

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

26 (g) “Identified parcel” means a parcel of real property that an
27 agency has identified as having a special benefit conferred upon
28 it and upon which a proposed assessment is to be imposed, or a
29 parcel of real property upon which a proposed property-related
30 fee or charge is proposed to be imposed.

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

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

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

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

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

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

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

17 (i) “Notice by mail” means any notice required by Article XIII C
18 or XIII D of the California Constitution that is accomplished
19 through a mailing, postage prepaid, deposited in the United States
20 Postal Service and is deemed given when so deposited. Notice by
21 mail may be included in any other mailing to the record owner
22 that otherwise complies with Article XIII C or XIII D of the
23 California Constitution and this article, including, but not limited
24 to, the mailing of a bill for the collection of an assessment or a
25 property-related fee or charge.

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

31 (k) *“Sewer” means services and systems provided by all real*
32 *estate, fixtures, and personal property owned, controlled, operated,*
33 *or managed in connection with or to facilitate sewage collection,*
34 *treatment, or disposition for sanitary or drainage purposes,*
35 *including lateral and connecting sewers, interceptors, trunk and*
36 *outfall lines, sanitary sewage treatment or disposal plants or works,*
37 *drains, conduits, outlets for surface or storm waters, and any and*
38 *all other works, property, or structures necessary or convenient*
39 *for the collection or disposal of sewage, industrial waste, or surface*

1 *or storm waters. “Sewer system” shall not include a sewer system*
 2 *that merely collects sewage on the property of a single owner.*

3 ~~(k)~~

4 (l) “Registered professional engineer” means an engineer
 5 registered pursuant to the Professional Engineers Act (Chapter 7
 6 commencing with Section 6700) of Division 3 of the Business
 7 and Professions Code).

8 ~~(t)~~

9 (m) “Vector control” means any system of public improvements
 10 or services that is intended to provide for the surveillance,
 11 prevention, abatement, and control of vectors as defined in
 12 subdivision (k) of Section 2002 of the Health and Safety Code and
 13 a pest as defined in Section 5006 of the Food and Agricultural
 14 Code.

15 ~~(m)~~

16 (n) “Water” means any system of public improvements intended
 17 to provide for the production, storage, supply, treatment, or
 18 distribution of water from any source.

19 SEC. 2. Section 53751 is added to the Government Code, to
 20 read:

21 53751. The Legislature finds and declares all of the following:

22 (a) The ongoing, historic drought has made clear that California
 23 must invest in a 21st century water management system capable
 24 of effectively meeting the economic, social, and environmental
 25 needs of the state.

26 (b) Sufficient and reliable funding to pay for local water projects
 27 is necessary to improve the state’s water infrastructure.

28 (c) Proposition 218 was approved by the voters at the November
 29 5, 1996, statewide General Election. Some court interpretations
 30 of the law have constrained important tools that local governments
 31 need to manage storm water and drainage runoff.

32 (d) Storm waters are carried off in storm sewers, and careful
 33 management is necessary to reduce pollution. But a court decision
 34 has excluded storm water from those provisions of Proposition
 35 218 that apply to property-related fees for sewer and water,
 36 preventing many important projects from being built.

37 (e) The court of appeal in *Howard Jarvis Taxpayers Ass’n v.*
 38 *City of Salinas* (2002) 98 Cal.App.4th 1351 concluded that the
 39 term “sewer,” as used in Proposition 218, is “ambiguous” and
 40 declined to use the statutory definition of the term “sewer system”

1 which was part of the then-existing law as Section 230.5 of the
2 Public Utilities Code.

3 (f) The court in *Howard Jarvis Taxpayers Ass’n v. City of*
4 *Salinas* (2002) 98 Cal.App.4th 1351 failed to follow long-standing
5 principles of statutory construction by disregarding the plain
6 meaning of the term “sewer.” Courts have long held that statutory
7 construction rules apply to initiative measures, including in cases
8 that apply specifically to Proposition 218 (see *People v. Bustamante*
9 (1996) 57 Cal.App.4th 693, *Keller v. Chowchilla Water Dist.*
10 (2000) 80 Cal.App.4th 1006). When construing statutes, courts
11 look first to the words of the statute, which should be given their
12 usual, ordinary, and commonsense meaning (*People v. Mejia*
13 (2012) 211 Cal.App.4th 586, 611). The purpose of utilizing the
14 plain meaning of statutory language is to spare the courts the
15 necessity of trying to divine the voters’ intent by resorting to
16 secondary or subjective indicators. The court in *Howard Jarvis*
17 *Taxpayers Ass’n v. City of Salinas* (2002) 98 Cal.App.4th 1351
18 asserted its belief as to what most voters thought when voting for
19 Proposition 218, but did not cite the voter pamphlet or other
20 accepted sources for determining legislative intent. Instead, the
21 court substituted its own judgment for the judgment of voters.

22 (g) Numerous sources predating Proposition 218 reject the
23 notion that the term “sewer” applies only to sanitary sewers,
24 including, but not limited to:

25 (1) Section 230.5 of the Public Utilities Code.

26 (2) Section 23010.3, which was first added by Chapter 1193 of
27 the Statutes of 1963.

28 (3) The Street Improvement Act of 1913 (repealed by Chapter
29 346 of the Statutes of 1963).

30 (4) The California Supreme Court stated in *Los Angeles County*
31 *Flood Control District v. Southern California Edison Co.* (1958)
32 51 Cal.2d 331, that “no distinction has been made between sanitary
33 sewers and storm drains or sewers.”

34 (5) The term, “sewer” has been used interchangeably to refer
35 to both sanitary and storm sewers in many other cases, including,
36 but not limited to, *County of Riverside v. Whitlock* (1972) 22
37 Cal.App.3d 863, *Ramseier v. Oakley Sanitary Dist.* (1961) 197
38 Cal.App.2d 722, and *Torson v. Fleming* (1928) 91 Cal.App. 168.

39 (6) Dictionary definitions of sewer, which courts have found to
40 be an objective source for determining common or ordinary

1 meaning, including Websters (1976), American Heritage (1969),
2 and Oxford English Dictionary (1971).

3 (h) Prior legislation has affirmed particular interpretations of
4 words in Proposition 218, specifically Assembly Bill 2403 of the
5 2013–14 Regular Session (Chapter 78 of the Statutes of 2014).

6 (i) The Legislature reaffirms and reiterates that the definition
7 found in Section 230.5 of the Public Utilities Code is the definition
8 of “sewer” or “sewer service” that should be used in the Proposition
9 218 Omnibus Implementation Act.

O

**Stormwater Legislative Outreach
Sacramento Trip
February 22, 2017**

SGVCOG Attendees

Diana Mahmud (Council Member, South Pasadena), Chair, Water Policy Committee
Judy Nelson (Council Member, Glendora), Vice Chair, Water Policy Committee
Eric Wolf, Senior Management Analyst, SGVCOG

Background: Council Member Diana Mahmud (South Pasadena), Chair of the SGVCOG Water Policy Committee, worked with the League of California Cities (LA Region), the LA County Elected Officials Stormwater Funding Group, and staff from the offices of San Gabriel Valley state senators and assembly members to draft initial bill language for submission to the Office of Legislative Council. The bill submissions were based on the SGVCOG Governing Boards' approved legislative agenda for 2017 and outline the most important statutory changes the Water Committee has identified in order to help municipalities comply with 2012 MS4 permits.

Five bills were introduced (two of these as spot bills):

- SB 541 (Allen): School facilities: water capture design standards.
http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB541
- SB 589 (Hernandez): Municipal separate storm sewer systems: financial capability analysis.
http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB589
- AB 1180 (Holden): Increase tire fees to be used for stormwater cleanup.
http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB1180

Spot Bills

- SB 633 (Portantino): This bill would state the intent of the Legislature to enact legislation relating to stormwater runoff in California. We intend that this spot bill will be shaped into legislation clarifying a municipalities entitlement to use water it captures.
http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB633
- AB 968 (Rubio): Urban water management planning. We intend that this spot bill will be shaped into legislation that allows the use of existing infrastructure to convey stormwater to sites more appropriate for capture and infiltration.
http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB968

An additional three concepts were presented to legislative staff prior to the trip but had not been introduced at that point:

- Establish municipal indemnity from personal injury or property damage caused by pollutants in stormwater/dry weather runoff projects.
- Modify criteria for appointment of Regional Board membership to require more expertise in the field of water supply, water rights, and water quality.
- Create a municipal ombudsman position at the State and Regional Boards.

Purpose of the Trip. Members of the SGVCOG traveled to Sacramento on February 22, 2017, in order to review the proposed and introduced legislation with the bill authors, senate and

assembly water committee leadership, and other legislators and staff, in order to generate support and answer questions.

Accomplishments. Prior to the trip, Eric had scheduled meetings with nine offices, including four SGV representatives, leadership of the assembly and senate water committees, and the water policy advisor to Speaker Rendon. Three additional meetings of opportunity were added throughout the day. The complete list of meetings including who attended is attached (Attachment A). At each meeting copies of the SGVCOG Stormwater Policy and SGVCOG Stormwater Legislative Agenda (Attachments B and C) were left with members and staff. Notes from each of the meetings follow, along with pending action and takeaways:

Attachments

- A. Stormwater Legislative Trip Agenda
- B. SGVCOG Stormwater Policy
- C. SGVCOG Stormwater Legislative Agenda

**San Gabriel Valley Council of Governments
Stormwater Legislative Trip: February 22, 2017**

Attendees:

Diana Mahmud, Chair, Water Policy Committee (Council Member, City of South Pasadena)
Judy Nelson, Vice Chair, Water Policy Committee (Council Member, City of Glendora)
Eric Wolf, Senior Management Analyst, SGVCOG

- 10:00, Room 5132, Assembly Member Chris Holden** **CONFIRMED**
- Tire fee
 - Meeting with Holden for 15 minutes
 - Met with Holden, Victor Munoz, Legislative Aide, and Naima Ford, Legislative Director
- 10:30, Room 2158, Assembly Member James Gallagher** **ADDED**
- Vice Chair: Water, Parks, and Wildlife
 - POC Joseph Zanze, Legislative Aide
 - Met with Stephen Veldhuizen, Assembly Fellow
- 11:00, Room 4162, Assembly Member Edwardo Garcia** **CONFIRMED**
- Chair: Water, Parks, and Wildlife
 - Kathrine Freeman, Water Consultant
 - Garcia has a committee meeting immediately before our appointment
- 11:30, Room 3086, Senator Anthony Portantino** **CONFIRMED**
- Municipal right to use captured water
 - Brendan Hughes, Chief of Staff
 - Meeting will be with Tara McGee
- 1:00, Room 319, Assembly Member Ian Calderon** **ADDED**
- Met with Voleck Taing, Senior Assistant
- 1:30, Room 5175, Assembly Member Blanca Rubio** **CONFIRMED**
- Use of FCD infrastructure
 - POC Joaquim Pacheco, Legislative Aide
 - Our meeting will be with Joaquim; the Assembly Member is not available
- 2:00, Room 446, Assembly Speaker Anthony Rendon** **CONFIRMED**
- Meet with Alf Brandt, Water Policy Advisor
 - 319-2519 call this number if no one is in outer office
- 2:30, Room 4062, Sen Jeff Stone** **CONFIRMED**
- Vice Chair, Senate Natural Resources and Water
 - Met with Stone, Christopher Wysocki, Chief of Staff, and Brittny Garcin, Executive Assistant
- 3:30, Room 5072, Senator Ben Allen** **CONFIRMED**
- State Architect
 - POC Tina Andolina, Senior Policy Consultant

- We will meet with Tina

4:00, Room 5119, Assembly Member Jacqui Irwin

CONFIRMED

- POC Brett Williams, Legislative Director
- We will meet with Brett; Assembly Member is not available

4:30, Room 4038, Sen Robert Hertzberg

ADDED

- Chair, Senate Natural Resources and Water
- Michael Bedard, Legislative Director
- Met with Julissa Degado, Legislative Aide

5:00, Room 2080, Senator Dr. Ed Hernandez

CONFIRMED

- FCA
- POC Susan Reyes, Legislative Aide
- The meeting will be with Susan; Senator is tied up all day
- We can use their office as base of operation if we need

San Gabriel Valley Council of Governments

Stormwater Legislation for 2017

San Gabriel Valley Council of Governments

1000 S. Fremont Unit 42
Bldg A 10-N, Suite 10210
Alhambra, CA 91803
Phone: 626.457.1800

Eric Wolf

Senior Management Analyst
SGVCOG
ewolf@sgvcog.org
626.457.1800

AB 1180 (Holden): Creates new tire fee to address stormwater pollution

- Zinc from tires is a significant contributor to stormwater pollution.
- Would increase the tire fee by \$1.50 to fund stormwater permit compliance

SB 589 (Hernandez): Adopts Financial Capability Analysis (FCA) as a component of Municipal Separate Sewer Stormwater System (MS4) permits

- To comply with MS4 permits, municipalities would need to significantly raise fees and taxes, placing a heavy financial burden on individual customers.
- FCA is used to assess the total costs and ability of a community to pay for all water-related services.
- While it does not waive requirements, FCA allows more time and greater flexibility in phasing and implementing water programs.
- SB 589 would require Regional and State Water Boards to include an FCA component in the implement of MS4 permits.

SB 541 (Allen): Recommend best design practices for water capture at public school facilities

- Requires the State Department of Education, the State Water Resources Control Board, and the Division of the State Architect, to consult and recommend best design practices that include water capture design standards for a all new, reconstructed, or altered public schools.

Legislation Under Development

AB 968 (Rubio): Create a Municipal Ombudsman position at the State and Regional Boards

- Create an ombudsman position with the role of advising on issues and policies associated with municipal storm sewer system permits.

SB 633 (Portantino): Allows use of flood control infrastructure for stormwater conveyance

- SB 633 would explicitly allow the use of flood control infrastructure to convey stormwater to sites that more cost-effectively and environmentally capture, treat, and infiltrate

SB XXX (Hernandez or Allen): Establish municipal indemnity from personal injury or property damage caused by pollutants in stormwater/dry weather runoff projects

- Where municipalities are acting to implement mandated stormwater capture and infiltration projects, they shall not be held accountable in the event that infiltration causes mobilization of pollutants

Other Proposed Legislation

- **Modify criteria for appointment of Regional Board membership to require more expertise in the field of water supply, water rights and water quality**



Washington, DC Itinerary March 13-16, 2017

Itinerary/RSVP contact:
Paul Hubler
cell: 626-379-4937
phubler@theaceproject.org

Monday, March 13

7:00 p.m. **San Gabriel Valley Dinner Meeting** (Medium Rare, 515 8th St. SE) RSVP required. Note: Dinner cost split among participating agencies on a per-person basis.

Tuesday, March 14

8:30 a.m. **ACE Congressional Breakfast Briefing** (Capitol Hill Hotel, 200 C St., SE)

10:00 a.m. **Storm water meeting with lobbyist Fred Hicks** (Capitol Hill Hotel, 200 C St., SE) 9 attendees: Gene Murabito, Cynthia Sternquist, Margaret Clark, Victoria Martinez, Jack Hadjinian, Phil Hawkey, Mark Christoffels, Paul Hubler, Kevin Jones

11:00 a.m. **Storm water meeting with Ms. Sharon Wagener, Rep. Julia Brownley's office** (1019 Longworth House Office Building) 4 attendees: Gene Murabito, Cynthia Sternquist, Margaret Clark, Phil Hawkey

11:30 a.m. **San Gabriel Valley Lunch Meeting** (Bluejacket/The Arsenal, 300 Tingey St., SE, Suite 180) Note: Lunch meeting for DOT meeting attendees.

1:00 p.m. **Meeting with Mr. Martin Klepper, Executive Director, Build American Bureau, Department of Transportation (USDOT** West Building, 1200 New Jersey Ave., SE) 13 attendees: Victoria Martinez, Jack Hadjinian, Gene Murabito, Cynthia Sternquist, Margaret Clark, John Fasana, Phil Hawkey, Mark Christoffels, Paul Hubler, Kevin Jones, Brendan McCann, Deanna Stanley, Dave Perry

2:30 p.m. **Meeting with Mr. Trevor Higgins, Legislative Assistant, Sen. Feinstein's office** (331 Hart Senate Office Building) 10 attendee limit: Victoria Martinez, Jack Hadjinian, Gene Murabito, Cynthia Sternquist, Margaret Clark, Phil Hawkey, Mark Christoffels, Paul Hubler, Kevin Jones, Brendan McCann

3:30 p.m. **Meeting with Mr. Clint Odom, Legislative Director, Sen. Harris' office** (112 Hart Senate Office Building) 11 attendees: Victoria Martinez, Jack Hadjinian, Gene Murabito, Cynthia Sternquist, Margaret Clark, Phil Hawkey, Mark Christoffels, Paul Hubler, Kevin Jones, Brendan McCann, Deanna Stanley

4:30 p.m. **Meeting with Rep. Norma Torres** (1713 Longworth House Office Building) 10 attendees: Victoria Martinez, Jack Hadjinian, Gene

Murabito, Cynthia Sternquist, Margaret Clark, Phil Hawkey, Mark Christoffels, Paul Hubler, Kevin Jones, Deanna Stanley

5 p.m.-7 p.m. **San Gabriel Valley Congressional Appreciation Reception** (2253 Rayburn House Office Building)

6 p.m.-8 p.m. ***Optional: California Transportation Congressional Reception*** (2167 Rayburn House Office Building)

7:30 p.m. **San Gabriel Valley Dinner Meeting** (The Monocle Restaurant, Federal Room South, 107 D St., NE). RSVP required. Note: Dinner cost split among participating agencies on a per-person basis.

Wednesday, March 15

10:00 a.m. **Meeting with Rep. Judy Chu** (2423 Rayburn House Office Building) 12 attendees: Victoria Martinez, Jack Hadjinian, Kathryn Barger, Gene Murabito, Margaret Clark, Phil Hawkey, Mark Christoffels, Paul Hubler, Kevin Jones, Brendan McCann, Deanna Stanley, Dave Perry

11:00 a.m. **Meeting with Rep. Linda Sanchez** (2329 Rayburn House Office Building) 10 attendees: Victoria Martinez, Jack Hadjinian, Gene Murabito, Margaret Clark, Phil Hawkey, Mark Christoffels, Paul Hubler, Kevin Jones, Brendan McCann, Deanna Stanley

12:15 p.m. **Lunch meeting with Rep. Adam Schiff** (Members' Dining Room, Capitol Building) Note: Assemble at Capitol Building south entrance to be escorted to the meeting by Rep. Schiff staff. 10 attendee limit: Victoria Martinez, Jack Hadjinian, Kathryn Barger, Gene Murabito, Margaret Clark, Phil Hawkey, Mark Christoffels, Paul Hubler, Kevin Jones

2:30 p.m. **Meeting with Rep. Ed Royce** (2310 Rayburn House Office Building) 10 attendees: Victoria Martinez, Kathryn Barger, Gene Murabito, Margaret Clark, Mark Christoffels, Kevin Jones, Dave Perry, Jimmy Lin, Ryan McLean, David Liu

3:00 p.m. **Meeting with Rep. Alan Lowenthal** (125 Cannon House Office Building) 6 attendees: Jack Hadjinian, Phil Hawkey, Paul Hubler, Brendan McCann, Deanna Stanley, Brad Jensen

4:00 p.m. **Meeting with Rep. Grace Napolitano and EPA staff** (1416 Longworth House Office Building) 15 attendees: Victoria Martinez, Jack Hadjinian, Kathryn Barger, Gene Murabito, Margaret Clark, Phil Hawkey, Mark Christoffels, Paul Hubler, Kevin Jones, Brendan McCann, Deanna Stanley, Dave Perry, Jimmy Lin, Ryan McLean, David Liu

6:30 p.m. **San Gabriel Valley Dinner Meeting** (Ambar Restaurant, Rooftop Patio, 523 8th St., SE). RSVP required. Note: Dinner cost split among participating agencies on a per-person basis.

Glendale's water rates violate state law, judge rules

The city of Glendale's water rate-pricing structure violates Proposition 218, a judge ruled last week.

(Rich Pedroncelli / AP)



Jeff Landa Contact Reporter

Last week, a judge ruled against the city of Glendale for violating Proposition 218 in creating its current water rate-pricing structure first adopted in 2014, in a lawsuit brought by the Glendale Coalition for Better Government.

In late January, the same Los Angeles Superior Court Judge, James Chalfant, ruled in favor of the same petitioner, the coalition, when he decided that [the city must repay nearly \\$57 million for violating Proposition 26](#) for an unauthorized transfer of funds from its utilities to the General Fund.

In three separate issues, the coalition argued that the city of Glendale violated Proposition 218, which requires approval from voters before the city can impose new taxes or increase taxes on property owners.

The first issue is in regard to how the city charged different categories of clients for water use.

During a 2014 study to establish water rates, the city had to determine what is known as peaking factor — "[the ratio of the maximum flow to the average daily flow in a water system](#)" — among 15 classes of customers.

Glendale Coalition for Better Government vs. City of Glendale Ruling

These included multifamily, single-family, businesses and the city itself. City officials decided that 15 classes were too many and condensed them into just four categories.

The coalition argued, and the judge later agreed, that the city provided no "meaningful evidence" to justify combining its own water-rate usage with those under the commercial category — whose peaking factor is considerably lower than the city's — and averaging the peaking factor between them both.

"Basically, what that ended up doing is small business subsidizing the city's use of its water," said Roland Kedikian, a coalition board member.

The judge also ruled that the 2014 study's assigned pricing tiers for single- and multiple-family residential groups was incorrect because it was not based on "analysis of cost" as required by Proposition 218. Rather, the city chose to assign tiers based on a "historical usage of water."

The third portion of the ruling against the city agreed with the coalition that the inclusion of "fire protection costs" — such as fire hydrants — levied against customers in the fixed monthly water charge also violated state law.

According to Proposition 218, fire services are considered a general government service and "available to public at large" and the burden to fund them should not fall disproportionately on water customers.

The Glendale City Council must first vote on whether or not to appeal the ruling before current water customers and those affected by the rate hike can expect new water rates or a reimbursement of any kind.

"The city hasn't decided to appeal yet, but if it does, the [judge's] decision will be stayed pending that appeal," said city spokesman Tom Lorenz in an email.

Jeff Landa, jeff.landa@latimes.com

Twitter: [@JeffLanda](https://twitter.com/JeffLanda)

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The Clean Water Rule only protects the types of waters that historically have been covered under the Clean Water Act. The rule does not create any new permitting requirements for agriculture and maintains all previous exemptions and exclusions. It does not regulate most ditches and does not regulate groundwater, shallow subsurface flows, or tile drains. It does not make changes to current policies on irrigation or water transfers or apply to erosion in a field. The Clean Water Rule protects waters from pollution and destruction – it does not regulate land use or affect private property rights. These statements are supported by the text of the rule and its preamble.

A Clean Water Act permit is only needed if a protected water is going to be polluted or destroyed.

FACT: THE CLEAN WATER RULE DOES NOT REGULATE MOST DITCHES

Rule Text § 230.3(s)(2)(iii): “The following are not ‘waters of the United States... the following ditches: (A) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary. (B) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands. (C) Ditches that do not flow, either directly or through another water, into [a traditional navigable water, interstate water, or the territorial seas.]”

Preamble page 169: “Moreover, since the agencies have focused in the final rule on the physical characteristics of excluded ditches, the exclusions will address all ditches that the agencies have concluded should not be subject to jurisdiction, including certain ditches on agricultural lands and ditches associated with modes of transportation, such as roadways, airports, and rail lines.”

FACT: THE CLEAN WATER RULE DOES NOT CHANGE EXEMPTIONS FOR AGRICULTURE

Preamble page 8: “Congress has exempted certain discharges, and the rule does not affect any of the exemptions from CWA section 404 permitting requirements provided by CWA section 404(f), including those for normal farming, ranching, and silviculture activities. CWA section 404(f); 40 CFR 232.3; 33 CFR 323.4. This rule not only maintains current statutory exemptions, it expands regulatory exclusions from the definition of “waters of the United States” to make it clear that this rule does not add any additional permitting requirements on agriculture.”

FACT: THE CLEAN WATER RULE DOES NOT REGULATE EROSIONAL FEATURES

Rule Text § 230.3(s)(2)(iv)(F): “The following are not ‘waters of the United States’ . . . erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary”

Preamble page 175: “While the proposed rule specifically identified gullies and rills, the agencies intended that all erosional features would be excluded. The final rule makes this clear.”

FACT: THE CLEAN WATER RULE DOES NOT REGULATE GROUNDWATER

Rule Text § 230.3(s)(2)(v): “The following are not ‘waters of the United States... groundwater, including groundwater drained through subsurface drainage systems.”

Preamble page 176: “The agencies include an exclusion for groundwater, including groundwater drained through subsurface drainage systems.”

FACT: THE CLEAN WATER RULE DOES NOT REGULATE FARM PONDS

Rule Text § 230.3(s)(2)(iv)(B): “The following are not ‘waters of the United States... Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds”

Preamble page 173: “In the exclusion for artificial lakes or ponds, the agencies have removed language regarding ‘use’ of the ponds, including the term ‘exclusively.’ . . . [T]he agencies recognize that artificial lakes and ponds are often used for more than one purpose and can have other beneficial purposes”

FACT: THE CLEAN WATER RULE DOES NOT REGULATE LAND USE

Preamble page 8: “The rule also does not regulate ... land use.”

FACT: THE CLEAN WATER RULE DOES NOT CHANGE POLICY ON IRRIGATION

Rule text § 230.3(s)(2)(iv)(A): “The following are not ‘waters of the United States... artificially irrigated areas that would revert to dry land should application of water to that area cease”

Rule text § 230.3(s)(2)(iv)(B): “The following are not ‘waters of the United States . . . Artificial constructed lakes and ponds created in dry land such as . . . irrigation ponds”

Preamble page 8: “The rule also does not . . . affect either the existing statutory or regulatory exemptions from NPDES permitting requirements, such as for agricultural stormwater discharges and return flows from irrigated agriculture”

FACT: THE CLEAN WATER RULE DOES NOT REGULATE PUDDLES

Rule Text § 230.3(s)(2)(iv)(G): “The following are not ‘waters of the United States... puddles.”

Preamble page 176: “The final rule adds an exclusion for puddles Numerous commenters asked that the agencies expressly exclude them in a rule. The final rule does so.”

FACT: THE CLEAN WATER RULE DOES NOT CHANGE POLICY ON STORMWATER

Rule text § 230.3(s)(2)(vi): “The following are not ‘waters of the United States... stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.”

Preamble page 177: “This exclusion responds to numerous commenters who raised concerns that the proposed rule would adversely affect municipalities’ ability to operate and maintain their stormwater systems The agencies’ longstanding practice is to view stormwater control features that are not built in ‘waters of the United States’ as non-jurisdictional.”

FACT: THE CLEAN WATER RULE DOES NOT REGULATE WATER IN TILE DRAINS

Rule Text § 230.3(s)(2)(v): “The following are not ‘waters of the United States... groundwater, including groundwater drained through subsurface drainage systems.”

FACT: THE CLEAN WATER RULE DOES NOT CHANGE POLICY ON WATER TRANSFERS

Preamble page 8: “The rule also does not ... affect either the existing statutory or regulatory exemptions from NPDES permitting requirements, such as for... water transfers.”

[WWW.EPA.GOV/CLEANWATERRULE](http://www.epa.gov/cleanwaterrule)

Urban Greening Grant Program

SOLICITATION NOW OPEN

The California Natural Resources Agency is pleased to announce the open solicitation period for the Urban Greening Grant Program! The Guidelines include information to assist in preparing an application for funding. Please be sure to read these Guidelines, Application and Forms in their entirety for important information on project eligibility, evaluation criteria, and submission requirements.

GUIDELINES AND APPLICATION ARE AVAILABLE FOR DOWNLOAD [HERE](#).

QUANTIFICATION METHODOLOGY TOOLS

[Urban Greening Quantification Methodology and Calculator](#)

TECHNICAL WORKSHOP SCHEDULE

Applicants are strongly encouraged to attend one of the eight workshops. Each workshop will include a formal presentation and breakout sessions designed to provide help and guidance in preparing grant applications.

March 13, 2017

9 am – 12 pm

SACRAMENTO

Resources Building Auditorium

1416 9th Street, 1st Floor

Sacramento, CA 95814

(Webcast available for the first hour only)

[Parking Information](#)

March 14, 2017

10 am – 1 pm

FRESNO

Caltrans Manchester Office

Yosemite Room 145

2015 East Shields Avenue, Suite 100

Fresno, CA 93726

Free On-Site Parking Available

March 16, 2017

1 pm – 4 pm

COACHELLA

Coachella Corporate Yard

53462 Enterprise Way

Coachella, CA 92236

March 17, 2017

9 am – 12 pm

RIVERSIDE

Calfire Southern Operations Center

2524 Mulberry Street, Media Center

Riverside, CA 92501

Free On-Site Parking Available

March 20, 2017

10 am – 1 pm

TRACY

City of Tracy Public Works
BSC Training Room
520 Tracy Boulevard,
Boyd Center – Gate 3
Tracy, CA 95376

Free On-Site Parking Available

March 27, 2017

10 am – 1 pm

OAKLAND

Temescal Beach House
6500 Broadway
Oakland, CA 94618

Free On-Site Parking Available

March 24, 2017

11 am – 2 pm

SAN DIEGO

San Diego Training Center
5500 Overland Avenue, Building 5500
1st Floor Conference Room
San Diego, CA 92123
*Free On-Site Parking and [Paid Street
Parking](#)*

March 28, 2017

11 am – 2 pm

LYNWOOD

Lynwood Civic Center Complex
Bateman Hall
11331 Ernestine Avenue
Lynwood, CA 90262
Free On-Site Parking Available



Funding Stormwater - The Next Great Challenge

April 3, 2017
County of Los Angeles DPW
Alhambra, CA

Forum and registration information available here:

<http://la.stormwater.com/>

How do we build successful stormwater finance strategies? These forums address important challenges municipal program managers face in building financial capacity including:

- Key questions every local program managers must ask and answer before seeking funding.
- Defining your program scope and funding needs
- Practical advice on developing stormwater program finance plans and budgets
- Strategies for overcoming barriers to stormwater funding in California
- Introduction to available public and private funding sources for capital and O&M needs
- Advice on funding multi-purpose projects that address stormwater quality and other goals.

The Final Agenda is being reviewed rough schedule is:

8:30-9AM Registration

9AM – 5PM Presentations