

# CLIENT NEWS BRIEF

## Legislative Update: Bill Eases Fee Collection for Storm Water Systems

A new law will make it easier for local governments to raise the revenue necessary to maintain and upgrade storm water management systems. Senate Bill (SB) 231 becomes effective on January 1, 2018.

### Proposition 218

Proposition 218 limits local governments' ability to impose new or increased fees or charges. The California Constitution defines a "fee" or "charge" as "any levy other than an ad valorem tax, a special tax, or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a property related service." Prior to imposing a new or increased fee or charge, local governments are required to provide notice to the property owners or ratepayers that would be responsible for the fee or charge. The proposed new or increased fee or charge can be blocked by the submission of written protests from a majority of property owners. This is commonly known as the "majority protest process."

Proposition 218 requires, in addition to the majority protest process, that new or increased fees or charges be approved by either a majority vote of the property owners or a two-thirds vote of the electorate in the affected area. The exception to this voter approval requirement is for fees or charges for "sewer, water, and refuse collection services."

### SB 231

In the case of *Howard Jarvis Taxpayers Ass'n v. City of Salinas* (2002) 98 Cal.App.4th 1351, the Court of Appeal considered, among other things, whether a storm drainage fee was subject to the voter approval requirement. The court held that the exception to the voter approval requirement for fees or charges for sewer services did not apply because the term "sewer" as defined in the Proposition 218 Omnibus Implementation Act was limited to "sanitary sewage." SB 231 is a direct response to the *City of Salinas* decision.

SB 231 creates a new, expansive definition of "sewer" for the purposes of Proposition 218 that explicitly includes storm water systems. The new definition is contained in the Proposition 218 Omnibus Implementation Act. SB 231 also contains findings that state the Legislature's disapproval of the *City of Salinas* decision. This change will make it easier for local government to raise the revenue necessary to maintain proper storm water management systems.

For more information on SB 231 or on Proposition 218 in general, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#) or download our [Client News Brief App](#).

November 2017  
Number 74



David J. Wolfe  
Partner  
Fresno Office  
[dwolfe@lozanosmith.com](mailto:dwolfe@lozanosmith.com)



Nicholas J. Clair  
Associate  
Sacramento Office  
[nclair@lozanosmith.com](mailto:nclair@lozanosmith.com)



*As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.*