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New CA Bills Aim to Protect Water Rates, Charges from Prop. 218 Litigation: Brownstein

Lawmakers introduce tools to ease pressure from SGMA and infrastructure demands on public agency revenue powers

Adopted in 1996, Proposition 218 (and later Proposition 26 in 2010) amended the California Constitution to create limits, including voter approval requirements, around local and regional government revenue powers (taxes, assessments and fees). While the intent of these laws is clear, ensuring proper compliance is far more convoluted. The California State Legislature introduced three bills this session in an apparent effort to reduce the vulnerability of public agencies' revenue streams to legal attack.

Why now?

One major factor is the significant pending costs of infrastructure and service improvements that agencies are planning to implement to meet future water supply and reliability needs in the face of climate change and implementation of the Sustainable Groundwater Management Act (SGMA).

Along with the increased need to raise revenue, there are significant questions as to who should pay and how much. Using SGMA implementation as an example: how should costs for projects to mitigate subsidence, shrinking groundwater storage, seawater intrusion, declining groundwater levels, poor water quality and depleted interconnected surface water be allocated? Most would probably answer, "fairly." But what fair means is not always clear, even assuming there is sufficient data to determine the cause of these undesirable results. For example, how should project costs be allocated between:

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