

Proposition 218 Reform Prospects and Development of Local Funding Sources

A Presentation to the
Funding Stormwater – The Next Great
Challenge Forum

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The Great Proposition 218 Challenge

- Prop 218 (1996) and the Prop 218 Omnibus Implementation Act (1997) block funding stormwater programs in California.
- Few stormwater quality utilities in the mid-1990s.
- Prop 218 gave special status to water, waste water, and refuse utilities.
- Stormwater not recognized as a utility, nor as a source of water.

Past Attempts to Correct the Problem

- ACA 10 (Harmon 2003): would have excluded runoff management from Prop 218 voter approval requirements.
- Further amendment bills in 2005, 2007, and 2009 not enacted.
- SB 1298 (Hertzberg 2016): a legislative attempt to change definition of sewers in Omnibus Bill.
- SB 231 (Hertzberg 2017): to correct the definition of sewer in the Omnibus Bill – similar to SB 1298 with some strengthened findings and directives.

Current Status of SB 231

- Introduced February 2, 2017. Scheduled for Senate Governance and Finance Committee on April 5, 2017, and then to the Floor.
- May be amended.
- In Assembly will probably go to Local Government and then to the Floor.
- Various individuals and groups reviewing the bill and deciding whether to support or oppose.

Prospects for SB 231

- Strong support and strong opposition likely.
- Many jurisdictions addressing increased regulatory requirements likely to support the bill.
- Those who think a Constitutional amendment should be changed by another Constitutional amendment likely to oppose the bill.
- Some elected officials in LA County will oppose the bill, fearing creation of County stormwater utility.

Potential for a 2018 Local Funding Measure in LA County

- BOS directed DPW to prepare two reports:
 - Report 1: Actions, timeline, and budget to develop a Water Resilience Plan.
 - Report 2: Funding mechanisms to implement the Water Resilience Plan.
- Report 1 proposed a 12-month work plan to develop enhanced local and regional water supply program.
- Report 2 identified available funding mechanisms and authorities for their creation and implementation.

		Limited			
			Limited Fee* and Assessment		
				District Formation (New Legislation)	
				JPA Formation (multi-party agreement)	
			Assessment	District Formation (LAFCO Process)	3+ years
			Tax	District Formation	~ 10 months
			Pumping Fee and Assessment	District Formation	1+ years



2017 Movement Toward a 2018 Funding Measure in Los Angeles County

- Supervisor Kuehl expected to introduce new water resilience motion in April.
 - Expected to focus on expansion of local water supply, partially through stormwater capture and use or infiltration
 - Will contain insight on a future funding measure and direction to staff on development of the measure
- Department of Public Works expected to submit a summary Water Resilience Plan to Board in Spring, 2017.

2017 Movement Toward a 2018 Funding Measure in Los Angeles County

- Committee that oversaw 2014 *Stormwater Funding Options Report* was reconstituted in 2015 to address funding report recommendations.
 - Periodically briefed on status of Resilience program.
- County consultant briefed BizFed on status of Water Resilience Plan development in September of 2016.
- *#OurWater* Coalition formed to support County water resiliency efforts, including a funding mechanism centered on capturing stormwater and dry-weather runoff.
- County consultants have recently conducted polling and legal research.

Problems with Previous Clean Water, Clean Beaches Initiative that Need to Be Addressed

- Cities with existing fees did not get credit for them.
- Not enough specific projects identified.
- Commercial/industrial BMPs were given credit in relation to the new 85th percentile storm criteria rather than the standards in place when they constructed the BMPs.
- Overhead too high – initially 19% of the total amount to be raised.
- Watershed Management Authorities were to be created, allocated 50% of the funds, and allowed a 10% overhead charge.
- Cities did not stand up in support of the measure.
- Many cities, the business community, and schools felt the measure was being forced on them.

Recommendations for Addressing Earlier Problems

- Give credit for existing stormwater quality fees.
- Include projects for the 19 WMPs and EWMPs.
- Give credit for commercial/industrial BMPs that meet SUSMP standards.
- Restrict overhead to 5% for Flood Control District, whatever replaces WAGs, and municipalities.
- Replace WAGs with groups of WMP and EWMP Watershed Groups
- Cities that need dedicated stormwater revenue stream should support the measure.
- Better engagement with business community, cities, community organizations, and environmental organizations.

Questions?

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