



## CEAC Flood Control & Water Resources Policy Committee

Thursday, November 30, 2017 | 10:45 am -12:00pm

CSAC 123<sup>rd</sup> Annual Meeting

Sacramento Convention Center, Rooms 302 & 303

Sacramento, California



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### AGENDA

Chair, Thomas Fayram, Santa Barbara County

Vice Chair, David Leamon, Stanislaus County

Vice Chair, Mike Carlson, Contra Costa County

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| 10:45 am | I.   | <b>Welcome, Self-Introductions, and Opening Remarks</b><br><i>Chair, Thomas Fayram, Santa Barbara County</i>   |
| 10:50 am | II.  | <b>Legislative Update</b><br><i>Cara Martinson, CSAC Senior Legislative Representative &amp; Federal Affairs Manager</i><br>Attachment One: Water Legislation Memo from the 2017 Legislative Session |
| 11:00 am | III. | <b>Stormwater Strategy: Orange County Model</b><br><i>Drew Atwater, Director of Planning, Moulton Nigel Water District</i>   |
| 11:30 am | IV.  | <b>SB 594: Expedited Permitting for Flood Risk</b><br><i>Kurt Lueneburger, Senior Water Resources Specialist, Santa Clara Valley Water Agency</i>  |
| 12:00 pm | V.   | <b>Closing Remarks &amp; Adjournment</b><br><i>Chair, Thomas Fayram, Santa Barbara County</i>  |

## ATTACHMENTS

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Attachment One..... Water Legislation Memo from the 2017  
Legislative Session

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**Attachment One**  
Water Legislation Memo from the 2017 Legislative Session



1100 K Street  
Suite 101  
Sacramento  
California  
95814

Telephone  
916.327.7500

Facsimile  
916.441.5507

To: CSAC Agriculture, Environment and Natural Resources Policy Committee  
From: Cara Martinson, Senior Legislative Representative, Federal Affairs Manager  
Nick Cronenwett, Legislative Analyst

**Re: Water Legislation from the 2017 Legislative Session**

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*CSAC's ANER Policy staff tracked many water related bills over the course of the 2017 legislative session. However, there were three bills in particular that deserve extra focus due to their potential impact on county government.*

**SB 623 (Monning) Water Tax**

SB 623, by Senator Monning, would create an ongoing funding stream for the purpose of providing funding to disadvantaged communities to upgrade their drinking water systems. To accomplish this goal, the bill would impose a water tax on homes and businesses of public water systems, a fee on bulk fertilizer materials, and a fee on milk producers. The proposal is expected to generate roughly \$100 million per year by imposing a tax of \$0.95 a month on each person that purchases water from a public water system (retail customers with a water meter). Included in the calculation is a sliding fee schedule on businesses of up to \$10 a month. SB 623 includes an exemption for households whose income is less than 200 percent of the federal poverty level. Fees are expected to generate roughly \$100 million from water users, \$17 million from fertilizers producers, and \$5.3 million from dairy producers in the first years of implementation, totaling \$122.3 million. The bill also requires the State Water Board to work in conjunction with local public health officers to generate a map of aquifers that supply small water systems and domestic wells which are at high risk of containing contaminants. Finally, the bill includes language prohibiting regional water boards from enforcement action against agricultural businesses for pollution run-off issues provided that the businesses are following specified mitigation measures that would include paying fees into the Fund in a timely manner.

According to the Assembly Appropriations Committee Analysis, over 300 drinking water systems, serving 200,000 Californians, are failing to provide safe drinking water. While concepts have been discussed on this idea for some time, this is the first legislative attempt to move a proposal of this nature forward. CSAC has worked with the Governor's Office on this issue generally in the past, but did not take a position on the bill due to timing as it was amended late in the year, and ultimately held in Assembly Appropriations Committee. The bill was supported by an unlikely collation of agricultural interests and environmental justice advocates and it was opposed by the Association of California Water Agencies (ACWA). ACWA supports the intent of the bill, but believes that general fund dollars should be used to address the issue. SB 623 is a two-year bill.

**SB 5 (de León) California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access For All Act of 2018**

SB, by Senator de León 5 passed both houses of the Legislature on the final day of the legislative session and was signed by Governor Brown on October 15<sup>th</sup>, 2017. The \$4 billion bond will appear on the June 2018 ballot. The bond would provide significant funding for parks, water and wildlife conservation in areas across the State. SB 5 was a top legislative priority of State Senate Leader Kevin de León and includes funds for the creation and expansion of parks in park deficient communities and for programs that improve access to California's outdoor recreational opportunities. Of special note to counties, SB 5 includes \$18 million for improvements to county fairgrounds and \$30 million for counties and Regional Park and Open Space Districts to make park improvements. It also contains significant funding for water

quality improvement projects and wildlife protection; providing up to \$200 million for flood protection and repair that can also be used for stormwater projects. The CSAC AENR Policy Committee will take this measure up for recommendation at their next meeting in beginning of 2018. The following is a breakdown of funds:

Bond Chapter Name	Description	Amount <i>millions</i>
Investments in Environmental and Social Equity, Enhancing California's Disadvantaged Communities	Funding to expand and create safe neighborhood parks in park poor areas.	<b>\$725</b>
Investments in Protecting, Enhancing, and Accessing California's Local and Regional Outdoor space	<ul style="list-style-type: none"> <li>• \$30 million in available grant funding for Counties and Regional Park and Open Space Districts.</li> <li>• Per capita grants for local governments for local park rehabilitation and improvements.</li> <li>• Grants to cities and districts with populations under 200,000 in urbanized counties.</li> <li>• Grants to local jurisdictions that passed local measures improving local or regional park infrastructure.</li> </ul>	<b>\$295</b>
Restoring California's Natural, Historic, and Cultural Legacy	Funds for restoring and preserving California's state park facilities, including \$18 million for county fairground improvements and \$30. Emphasis on using funds to clear maintenance backlog.	<b>\$218</b>
Trails and Greenway Investments	Grant funding for trails and greenways.	<b>\$30</b>
Rural Recreation, Tourism, and Economic Enrichment Investment	Competitive grants for rural areas of 500,000 people or less and low population densities.	<b>\$25</b>
California River Recreation, Creek, and Waterway Improvements Program	Grant funding for: <ul style="list-style-type: none"> <li>• California River Parkways Act (minimum \$10 million)</li> <li>• Urban Stream Restoration (minimum \$10 million)</li> <li>• Water related projects in specified conservancies</li> </ul>	<b>\$162</b>
State Conservancy, Wildlife Conservation Board, and Authority Funding	Funding for specified conservancies, Wildlife Conservation Board, and the Salton Sea Authority.	<b>\$767</b>
Ocean, Bay, and Coastal Protection	Funding for ocean, bay and coastal protection.	<b>\$175</b>
Climate Preparedness, Habitat Resiliency, Resource Enhancement, and Innovation	Funds for direct expenditures or grants for wildlife conservation.	<b>\$443</b>

Clean Drinking Water and Drought Preparedness	Funds to help meet the goals of the Water Quality, Supply, and Infrastructure Improvement Act of 2014.	<b>\$250</b>
Groundwater Sustainability	Grants for projects that prevent or reduce contamination of groundwater that serves a source of drinking water.	<b>\$80</b>

**SB 231 (Hertzberg) Prop. 218 Exemption for Stormwater Systems**

SB 231 was signed into law by Governor Jerry Brown on October 6, 2017. This bill amends definition of “sewer” in the Proposition 218 Omnibus Implementation Act to include storm drainage systems. The bill is part of ongoing attempts to clarify the constitutional and statutory authority of counties, cities, and local water agencies to finance stormwater projects through Proposition 218 exempted user fees.

Under Proposition 218, which enacted Article XIII D of the California Constitution, three types of property related user fees are exempt from local election requirements, including water, refuse collection and sewer services. However, in the case of *Howard Jarvis Taxpayers Ass’n v. City of Salinas* (2002) 98 Cal.App.4th 135, the court determined the term “sewer” in Article XIII D Section 6 (c) of the California Constitution to be ambiguous, thereby disqualifying user fees for stormwater systems from using the exemption. The decision in Salinas significantly increased barriers to local government’s ability to adequately finance, build, maintain and operate stormwater systems. In addition, compliance with increased federal government regulatory requirements for Municipal Storm Sewer System Permits (MS4 Permits) has become increasingly expensive which has left local governments struggling to pay for stormwater systems out of their general funds.

The interplay between recent legislation and past court decisions regarding the Prop. 218 exemption is complex and has created legal uncertainty around SB 231’s effect on a local government’s ability to raise storm water fees under the exemption. The Howard Jarvis Taxpayers Association, which brought legal action in the Salinas case, is suspected to bring a legal challenge on the use of SB 231 to raise stormwater fees. The legal issue brought about by the passage of SB 231 is whether or not the Legislature’s amendment of the Proposition 218 Omnibus Implementation Act, housed in the California Government Code, is sufficient to overcome a California Appellate Court’s interpretation of a constitutional provision adopted through the state’s initiative process. Supporters are actively searching for a test city or special district that is willing to take on what is suspected to be a legal challenge by Howard Jarvis and subsequent precedent setting decision.

**Contact.** For additional information, please contact Cara Martinson, CSAC Senior Legislative Representative & Federal Affairs Manager at 916-327-7500, ext. 504, or [cmartinson@counties.org](mailto:cmartinson@counties.org), or Nick Cronenwett, CSAC Legislative Analyst at 916-327-7500, ext. 531, or [ncronenwett@counties.org](mailto:ncronenwett@counties.org).