

Senate Bill No. 1072

CHAPTER 323

An act to add Article 4.6.5 (commencing with Section 53758.5) to Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, relating to local government.

[Approved by Governor September 20, 2024. Filed with
Secretary of State September 20, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1072, Padilla. Local government: Proposition 218: remedies.

The California Constitution sets forth various requirements for the imposition of local taxes. The California Constitution excludes from classification as a tax assessments and property-related fees imposed in accordance with provisions of the California Constitution that establish requirements for those assessments and property-related fees. Under these requirements, an assessment is prohibited from being imposed on any parcel if it exceeds the reasonable cost of the proportional special benefit conferred on that parcel, and a fee or charge imposed on any parcel or person as an incident of property ownership is prohibited from exceeding the proportional cost of the service attributable to the parcel.

Existing law, known as the Proposition 218 Omnibus Implementation Act, prescribes specific procedures and parameters for local compliance with the requirements of the California Constitution for assessments and property-related fees.

This bill would require a local agency, if a court determines that a fee or charge for a property-related service, as specified, violates the above-described provisions of the California Constitution relating to fees and charges, to credit the amount of the fee or charge attributable to the violation against the amount of the revenues required to provide the property-related service, unless a refund is explicitly provided for by statute.

This bill would declare that its provisions further the purposes and intent of Proposition 218, approved by the voters at the November 5, 1996, statewide general election, and the Proposition 218 Omnibus Implementation Act.

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

SECTION 1. Article 4.6.5 (commencing with Section 53758.5) is added to Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 4.6.5. Property-Related Fee or Charge Remedy

53758.5. (a) If a court determines that a fee or charge for a property-related service, including water, sewer, and refuse collection, violates Section 6 of Article XIII D of the California Constitution, then the local agency shall, in the next procedure to impose or increase the fee or charge, credit the amount of the fee or charge attributable to the violation against the amount of the revenues required to provide the property-related service unless a refund is explicitly provided for by statute.

(b) This section does not apply to claims related to billing errors.

SEC. 2. The Legislature finds and declares that this act furthers the purposes and intent of the Right to Vote on Taxes Act, approved by the voters as Proposition 218 at the November 5, 1996, statewide general election, and the Proposition 218 Omnibus Implementation Act (Chapter 38 of the Statutes of 1997) by accomplishing all of the following:

(a) Finding that Proposition 218 does not contain any affirmative intent to authorize a refund remedy.

(b) Recognizing that water and sewer agencies, and local governments providing property-related services, set charges to merely recover costs annually and receive no profit.

(c) Further recognizing that lawsuits seeking refunds for property-related service rate determinations threaten to compromise the financial stability of water and sewer agencies and local governments providing property-related services and the critical public services they provide.

(d) Further recognizing that any refund would need to be funded by raising rates on future ratepayers, further reducing the affordability of essential public services.

(e) Protecting ratepayers by requiring that the entity charging the property-related service fee or charge credit against future revenues the amount of any fee or charge in violation of Proposition 218.