

# Webinar:

## “Getting it right: Stormwater Stewardship”

Senator Robert M. Hertzberg  
with Guest Speakers:

- Michael Colantuono, Colantuono, Highsmith & Whatley, PC
- Sean Bothwell, California Coastkeeper Alliance

# SB 231: Stormwater Stewardship

- SB231 clarifies Proposition 218 by defining “sewer” to include stormwater, which is in line with pre-existing statutes, court opinions, and dictionary definitions.
  - Stormwater is at the intersection of managing water, sewer and refuse, and we think it should be subject to the same procedures of careful management.
  - This bill does not raise taxes or fees and leaves it up to local governments to decide if and when to use this tool.
  - SB231’s dedicated sewer fees facilitate access to state and federal dollars that require local matching funds, which cuts the amount taxpayers will have to chip in, and provides an alternative to forcing these cities and counties to take from general funds to paying huge fines or from important services like firefighting.

# Boundaries of Legislation

- Property related stormwater management fees will finally have the opportunity to cost-effectively capture free rain water, augment critical water supplies, as well as protect properties and businesses from flooding and pollution.
- We must continue to work together to ensure that we build upon our success in the legislature with success in the courts.
- It does not change the Constitutional mandate for rigorous oversight and process for collection of fees benefitting property owners, including reports, hearings, and protest votes.

# Legal Context

- Art. XIII D, §6 (c) requires a property-owner or registered-voter election on property related fees (in addition to the majority protest proceeding) except for water, sewer and trash fees
  - Water was defined broadly by Gov. Code § 53750(m), as amended by 2014's AB 2403 (Redon) and *Griffith v. Pajaro Valley Water Mgmt Authority*
  - Trash was defined broadly by *Crawley v. Alameda County Waste Management Authority*
  - Sewer was defined narrowly by *HJTA v. City of Salinas*
- SB 231 uses statute to give sewer a broad meaning, just as *Crawley* used a statute to give trash service a broad meaning

# Careful Implementation

- Water is free, transportation of water is not. An implementing authority should consider the following:
- Projects that use the authority of AB 2403 and SB 231
- Political support of fee increase
- Litigation risk

# Litigation

- SB 231 clarifies a constitutionally-permissible property-related fee for a property-related service to manage stormwater.
- It is critical as we move forward with this clarification, that implementation, be deliberate, thoughtful and far from any claims of overreach or abuse.



# Contact

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