



Proposition 218: Understanding the Basics

The Marin Municipal Water District, like other local governments, must follow legal requirements established by Proposition 218 when proposing rate increases. Here is some background information on the proposition and the requirements.

Overview

On November 5, 1996, California voters approved Proposition 218, the “Right to Vote on Taxes Act.” Proposition 218 amended the California Constitution by adding elements that affect the ability of special districts like MMWD and other local governments to levy and collect taxes, assessments, and property-related fees and charges.

With a few exceptions, “fee” or “charge” means any levy imposed by an agency upon a parcel, including a user fee or charge for a property-related service.

“Property-related service” means a public service having a direct relationship to property ownership. Any special district proposing to adopt a new, or increaseⁱ an existing, property-related fee or charge must comply with both the substantive and procedural requirements of Prop. 218.

Substantive Requirements of Prop. 218

According to Prop. 218, a property-related fee must meet the following substantive requirements:

- revenues derived from the fee must not exceed the funds required to provide the service;
- revenues derived from the fee must not be used for any purpose other than that for which the fee is imposed;
- the amount of a fee imposed must not exceed the proportional cost of the service attributable to the parcel;
- the fee may not be imposed for a service unless the service is actually used by, or immediately available to, the owner of the property subject to the fee; and
- no fee or charge may be imposed for general governmental services, such as police, fire, ambulance, or libraries, where the service is available to everyone in the community. ⁱⁱ

Procedural Requirements of Prop. 218

Prop. 218 requires that a public agency proposing a new or increased property-related fee or charge provide written notice by mailⁱⁱⁱ to the owner^{iv} of each parcel upon which the fee or charge will be imposed.

- The notice must contain the following information:
 - the proposed amount of the fees or charges;
 - the basis upon which the fees or charges were calculated;
 - an explanation of the need for the new or increased fees or charges; and

- the date, time, and location of the public hearing at which the agency will consider the new or increased fees.^v
- Prop. 218 also requires that the public hearing be held at least 45 calendar days after the mailing of the notice; and
- provides that a property-related fee or charge may not be imposed or increased if a majority submit written protests.

These requirements also apply to tenants if they are responsible for paying the fee or charge (i.e., customers of record).

Public Hearing Requirements

The final step in the Prop. 218 process is the public hearing and the determination of whether there is a majority protest against the property-related fee or charge. The public hearing can't be held until at least 45 days after the notice is mailed.^{vi} At the public hearing, the agency will hear and consider all public comments.^{vii}

At the end of the public hearing, if written protests against the proposed new or increased fees or charges are *not* presented by a majority of affected property owners, the agency may proceed with imposing the fees or charges.^{viii}

California law simplifies the process for determining whether a majority protest exists by allowing one protest, filed by an owner or a tenant of an affected parcel, to be counted.

Endnotes

ⁱ California Government Code section 53750(h).

ⁱⁱ Cal. Const. art. XIII D, §§ 6(b)(1)-(5).

ⁱⁱⁱ California Government Code section 53750(i).

^{iv} Senate Bill 919, adopted as urgency legislation in July 1997 and referred to as the Proposition 218 Omnibus Implementation Act, attests to the purposes of Article XIII C and XIII D, the term "record owner" means "the owner of a parcel whose name and address appears on the last equalized secured property tax assessment roll, or in the case of any public entity, the State of California, or the United States, means the representative of that public entity at the address of that entity known to the agency." California Government Code section 53750(i) defines "notice by mail" to include providing notice via a utility bill for a fee or charge, which in some instances may be mailed to a utility customer rather than the record owner of the parcel where the service is provided.

^v Cal. Const. art. XIII D, § 6(a)(1).

^{vi} Cal. Const. art. XIII D, §6(a)(2).

^{vii} *Id.*

^{viii} *Id.*