



Santa Clara Valley Water District

File No.: 26-0245

Agenda Date: 3/24/2026

Item No.: *4.3.

SUPPLEMENTAL BOARD AGENDA MEMORANDUM

Government Code § 84308 Applies: Yes No
(If "YES" Complete Attachment A - Gov. Code § 84308)

SUBJECT:

Adopt Recommended Positions on State Legislation: *AB 1577 (Bauer-Kahan) Data Centers: Monthly Reporting, AB 2051 (Wicks) Public resources: Coastal Resilience Permitting Working Group, *AB 2180 (Ward) Local Government: Proposition 218 Omnibus Implementation Act: Proportional Cost of Service, *AB 2215 (Calderon) Statutory Time Extension for State Water Project Water Rights Permits, *AB 2619 (Papan) Water Resources: Data Centers, SB 872 (McNerney) Climate Change: Funding Priorities, *SB 899 (Grove) Wildfire Smoke: Health Cost Assessment, SB 1085 (Durazo) Water Supply Planning: California Environmental Quality Act Determination, SB 1153 (Caballero) Disaster Preparedness: Urban Retail Water Suppliers and Public Water Systems: Wildfire, and Other Legislation Which May Require Urgent Consideration for a Position by the Board.

REASON FOR SUPPLEMENTAL MEMORANDUM:

This supplemental Board agenda memorandum conveys additional information received after the initial agenda item was released, consistent with Executive Limitations Policy EL-7-10-5.

RECOMMENDATION:

- A. *Adopt a position of "Support" on: AB 1577 (Bauer-Kahan) Data Centers: Monthly Reporting;
- B. Adopt a position of "Support" on: AB 2051 (Wicks) Public Resources: Coastal Resilience Permitting Working Group;
- C. *Adopt a position of "Support" on: AB 2180 (Ward) Local Government: Proposition 218 Omnibus Implementation Act: Proportional Cost of Service;
- D. *Adopt a position of "Support" on: AB 2215 (Calderon) Statutory Time Extension for State Water Project Water Rights Permits;
- E. *Adopt a position of "Support" on: AB 2619 (Papan) Water Resources: Data Centers;
- F. Adopt a position of "Support and Amend" on: SB 872 (McNerney) Climate Change: Funding Priorities;
- G. *Adopt a position of "Support" on: SB 899 (Grove) Wildfire Smoke: Health Cost Assessment;
- H. Adopt a position of "Support" on: SB 1085 (Durazo) Water Supply Planning: California Environmental Quality Act Determination;
- I. Adopt a position of "Support" on: SB 1153 (Caballero) Disaster Preparedness: Urban Retail

Water Suppliers and Public Water Systems: Wildfire.

SUMMARY:

***AB 1577 (Bauer-Kahan) Data Centers: Monthly Reporting (Introduced - 01/12/2026)**

Position Recommendation: Support

Priority Recommendation: 2

AB 1577 would require the California Energy Commission (Commission) to establish a process for the owner of a data center to submit specified information to the commission on a monthly basis, including the data center's power usage effectiveness, water usage effectiveness, total water consumption and potable water consumption, and the quantity of fuel consumed by onsite generators or other fuel-based energy systems. The bill would require the commission to annually publish the information submitted in an anonymized and aggregated format on its website. The Commission would be required, as part of the 2029 edition of the integrated energy policy report, to include an assessment of electrical load trends for data centers.

The bill would also require the owner or developer of a data center, upon applying for a discretionary permit, entitlement, or land use authorization required for the construction or operation of the data center, to submit to the applicable local agency the information described above.

Impact to Valley Water

Santa Clara County hosts well over 100 data centers, most of which are concentrated in the cities of Santa Clara and San José. Additional data centers are planned throughout the county. Overall, the county hosts more than a third of the State's total data centers.

The City of Santa Clara has enacted a municipal code mandating recycled water usage at these types of facilities. As a result, the majority of Santa Clara's data centers use recycled water.

The City of San José has adopted the Energy and Water Building Performance Ordinance (BPO) that requires owners of nonresidential and multifamily buildings to track their energy and water use. Buildings are required to meet energy and water efficiency standards on a rolling five-year basis or make improvements if the standards are not met.

In addition to using recycled water to reduce potable water use, data centers have implemented advanced cooling technologies with low water use, such as adiabatic systems, chip-level and closed-loop liquid cooling systems. Newly planned data centers proposed within the county are expected to have low potable water demands due to the required use of recycled water and the adoption of advanced cooling technologies.

Despite local efforts to mitigate the impact of data center water demand, better data on water use could help local water agencies, such as Valley Water, plan for actual needs.

Under this bill, data center applicants in cities in our service area would have to provide

estimated total and potable water use and water use efficiency to the local permitting agency as part of discretionary approvals. These disclosures would flow into CEQA documents, water supply assessments, infrastructure planning discussions, and interagency coordination, where Valley Water can engage and plan for actual needs.

Staff recommends that the Board adopt a position of “Support” on AB 1577.

Pros

- Increased data availability would improve forecasting and planning.
- By separating potable from total water use, it is easier to identify where potable substitution or reuse could be feasible.
- An aggregated, anonymized publication can help policymakers understand trends.

Cons

- Indirect access to data could result in an increased administrative burden on staff for collecting, identifying, and analyzing the data.
- The anonymized, aggregated data provided on the Commission website is unlikely to provide local planning insights.

***AB 2180 (Ward) Local Government: Proposition 218 Omnibus Implementation Act:
Proportional Cost of Service (Introduced - 02/19/2026)
Position Recommendation: Support
Priority Recommendation: 2**

Recent appellate court decisions have resulted in differing and, in some cases, conflicting views of how water providers can set tiered water rates; namely, *Dreher v. City of Los Angeles Department of Water and Power* (2025) and *Patz v. City of San Diego* (2025). The most recent decision, *Dreher*, provides a framework most consistent with how water agencies generally set rates.

On December 8, 2025, the California Court of Appeal issued its decision in *Dreher*, affirming Los Angeles Department of Water and Power's (LADWP) budget-based tiered water rates for single-dwelling unit customers. The court rejected the *Patz* court's strict interpretation of Proposition 218 in several key respects, finding: (1) agencies may base tiered rates on source-of-supply costs even when supplies are commingled; (2) tier breakpoints do not require cost-based justification; and (3) agencies may rely on peak pumping and storage costs to support higher rates in upper tiers. The court also held that while a low-income subsidy adjustment violates Proposition 218, refunds are not presumed. Instead, a claimant must satisfy statutory prerequisites, including paying under protest and submission of an administrative claim.

AB 2180 would provide clarity and consistency to water agencies and their customers in setting proportional rates by codifying the holding in *Dreher*. By clarifying what is required to comply with Proposition 218's proportionality requirements, this proposed legislation will provide predictability and minimize unnecessary legal disputes over water rates. Because the courts have reached divergent

conclusions on this topic, it is both necessary and appropriate for the Legislature to clarify how the California Constitution should be interpreted by amending the Proposition 218 Omnibus Implementation Act of 1997.

Impact to Valley Water

For water agencies setting water rates, balancing the need to align their rate structures with these constitutional mandates with the need to generate enough revenue to fund their system's operation, maintenance, and replacement can prove challenging, due in no small part to the threat of litigation.

These legal challenges are often filed by high water users as class action lawsuits that allege that the fees or charges imposed on their customer class are not proportional to the cost of service and that their customer class is being penalized for higher water consumption.

The results of these legal challenges have generally been unfavorable for water agencies. In the wake of these court decisions, water agencies have been forced to restructure their rates to meet increasingly complex - and narrow - proportionality requirements.

This bill is sponsored by ACWA and was developed by the ACWA Legal Affairs Committee. Staff recommends that the Board adopt a position of "Support" on AB 2180.

Pros

- Codifies the recent *Dreher* decision to clarify what proportionality means in the context of water rates.
- Provides predictability for water agencies' adoption and administration of water rates.
- Minimizes legal disputes over water rates moving forward.

Cons

- None.

***AB 2215 (Calderon) Statutory Time Extension for State Water Project Water Rights Permits (Introduced - 03/19/2026)**

Position Recommendation: Support

Priority Recommendation: 2

AB 2215 would extend the timeline for the full development of the State Water Project's (SWP) water rights permits to the year 2085, the same term as the existing, validated contracts between the State of California (Department of Water Resources [DWR]) and the public water agencies for the SWP water supply.

DWR, which owns, operates, and holds the water rights for the SWP, filed a petition for a time extension with the State Water Resources Control Board (Water Board) approximately 15 years ago, but that application has never been processed. The delay hinders DWR's ability to modernize the

SWP and effectively plan for climate change.

The SWP is the nation's largest state-owned water and power generator and user-financed water system, and it helps California manage its water supply during extremes such as floods and droughts. DWR has been diligently pursuing the development of its existing SWP water rights. Over several decades, DWR has constructed 36 water storage facilities, 21 pumping plants, five hydroelectric power plants, four pumping-generating plants, and approximately 700 miles of canals, tunnels, and pipelines. Operations and maintenance of these facilities cost over a billion dollars per year, regardless of the amount of water delivered, and those costs are paid by the public water agencies that are under contract with DWR.

AB 2215 would not approve any future project or change in SWP operations. Approval of the SWP time extension would not diminish the public's right to participate in future SWP permitting activities. Future permitting processes would continue to be required before SWP operations could be changed and/or infrastructure projects built. None of the actions that would allow DWR to develop its water rights are exempt from CEQA, NEPA, ESA, CESA, or any other regulation protecting the environment, water quality, or water rights holders.

AB 2215 also includes provisions specifically ensuring that the bill shall not be construed as approving any proposed modification to the physical facilities of the SWP, including the Delta Conveyance Project.

Impact to Valley Water

For Valley Water, an SWP contractor, this bill provides contract certainty and long-term reliability. The bill does not authorize new facilities or operational changes, but it preserves DWR's ability to fully develop existing permitted water rights over a longer timeframe.

As referenced above, public water agencies, including Valley Water, who are under contract with DWR, are responsible for the costs of operation and maintenance of the SWP facilities.

Staff recommends that the Board adopt a position of "Support" on AB 2215.

Pros

- Preserves long-term SWP legal authority.
- Aligns permit timelines with contract duration.
- Reduces risk of legal/administrative uncertainty.

Cons

- None.

***AB 2619 (Papan) Water Resources: Data Centers (Introduced - 02/20/2026)**

Position Recommendation: Support

Priority Recommendation: 2

AB 2619 would require an owner or operator of a data center, prior to applying to a city or a county for an initial business license, equivalent instrument, or permit, to provide its water supplier, under penalty of perjury, an estimate of the expected water use, the anticipated source of water, and the data center's projected water use volume for the maximum day, maximum month, and average year. When applying to a city or county for an initial business license, the bill would require a person who owns or operates a data center to report, under penalty of perjury, on the application, an estimate of the expected water use, the anticipated source of water, and the data center's projected water use volume for the maximum day, maximum month, and average year. When applying to a city or county for a renewal of a business license, equivalent instrument, or permit, the bill would require a person who owns or operates a data center to report, under penalty of perjury, on the application, the data center's annual water use for the preceding calendar year, including total water use, direct water use, and indirect water use, as prescribed.

This bill would require the Department of Water Resources (DWR) and the California Energy Commission (Commission) to develop, on or before January 1, 2029, guidelines and best practices to maximize the efficient use of natural resources to address the developing and emerging needs of technology in California, including the use of closed-loop systems, nonpotable water, installation of rainwater and stormwater capture infrastructure, water-efficient practices for indoor and outdoor water use, water-efficient practices need to be scalable and increased for higher demand data centers, and location, design, construction, and capacity of cooling water intake structures reflecting the best technology available for minimizing adverse environmental impact. The bill would also require DWR to develop guidance that cities and counties may use for assessing projected water use, water efficiency measures, and cumulative water resource impacts of proposed data centers within the context of local and regional water management objectives.

This bill would require that data center demand be added to an Urban Water Management Plan's annual water supply and demand assessment and annual water shortage contingency plan.

Impact to Valley Water

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In addition to using recycled water to reduce potable water use, data centers have implemented advanced cooling technologies with low water use, such as adiabatic systems,

chip-level and closed-loop liquid cooling systems. Newly planned data centers proposed within the county are expected to have low potable water demands due to the required use of recycled water and the adoption of advanced cooling technologies.

Despite local efforts to mitigate the impact of data center water demand, better data on water use could help local water agencies, such as Valley Water, plan for actual needs. As the wholesaler, Valley Water would gain access to the information indirectly through retail coordination, review of Urban Water Management Plans, and review of local permitting documents.

Staff recommends that the Board adopt a position of “Support” on AB 2619.

Pros

- Increased data availability would improve forecasting and planning.
- Strengthens recycled water opportunities by explicitly promoting closed-loop systems, nonpotable use, and rain/stormwater capture.

Cons

- Indirect access to data could result in an increased administrative burden on staff for collecting, identifying, and analyzing the data.

***SB 899 (Grove) Wildfire Smoke: Health Cost Assessment (Amended-03/02/2026)**

Position Recommendation: Support

Priority Recommendation: 3

The California Wildfire and Forest Resilience Action Plan (Action Plan), administered by the Wildfire and Forest Resilience Task Force (Task Force) pursuant to Public Resources Code Section 4770 et seq., coordinates statewide efforts to reduce wildfire risk and improve forest health. The Office of Environmental Health Hazard Assessment (OEHHA) and the State Department of Public Health (CDPH) evaluate environmental health impacts, including those associated with wildfire smoke exposure.

SB 899 requires the Task Force, in cooperation with OEHHA and CDPH, to assess the health costs and impacts of high-severity wildfire smoke using existing data sources. The assessment must be completed on or before July 1, 2028, and must:

- Estimate the number of emergency room visits and deaths attributable to high-severity wildfire smoke in California since July 1, 2018;
- Develop an estimate of associated health care costs;
- Create a model to determine the health and economic benefits of achieving the goals in the Action Plan;

- Provide recommendations to enhance the health benefits of the Action Plan.

The Task Force may contract with an independent entity to complete the assessment. The results must be incorporated into the next update of the Action Plan following completion of the study.

Impact to Valley Water

Valley Water manages 10 reservoirs, 333 miles of waterways, and watershed lands in Santa Clara County. As part of the water supply and flood protection responsibilities, Valley Water coordinates with CalFire and local fire protection agencies to support wildfire response. CalFire helicopters have direct access to Valley Water reservoirs for firefighting, and Valley Water works closely with local water retailers on emergency planning and response efforts.

Wildfire smoke has increasingly impacted air quality and public health in Santa Clara County, particularly among vulnerable populations. SB 899 will help quantify the health and economic impacts of wildfire smoke and strengthen the case for investments in wildfire prevention, forest management, watershed resilience, and emergency preparedness.

By identifying the public health benefits associated with achieving the goals of the Action Plan, SB 899 supports data-driven investment in wildfire mitigation efforts. These efforts align with Valley Water's role in watershed stewardship and emergency fire management coordination.

Staff recommends that the Board adopt a position of "Support" on SB 899.

Pros

- Elevates the public health impacts of wildfire smoke in statewide policy discussions.
- Supports stronger justification for wildfire prevention and resilience investments.
- Aligns with Valley Water's watershed management and emergency response coordination efforts.
- Promotes data-driven policymaking.

Cons

- Does not provide dedicated funding for implementation of the study's recommendations.
- May result in additional policy discussions or expectations for land managers depending on findings.

ENVIRONMENTAL JUSTICE IMPACT:

No Change from original memo.

FINANCIAL IMPACT:

No Change from original memo.

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CEQA:

No Change from original memo.

ATTACHMENTS:

None.

UNCLASSIFIED MANAGER:

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