

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: JENNIFER BURKE, DIRECTOR - SANTA ROSA WATER
SUBJECT: SUMMARY OF AND RESPONSE TO WRITTEN OBJECTIONS
RECEIVED PURSUANT TO STATE BILL AB 2257 (2025),
REQUIRING WOULD-BE CHALLENGERS TO EXHAUST
ADMINISTRATIVE REMEDIES WITH RESPECT TO PROPOSED
WATER AND WASTEWATER RATES FOR FISCAL YEARS
BEGINNING JULY 1, 2025 – 2029 BY TIMELY FILING WRITTEN
OBJECTIONS PRIOR TO INITIATING LITIGATION
CHALLENGING PROPOSED WATER AND WASTEWATER
RATES

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the Water Department that the City Council, by resolution, respond to all 10 timely received written objections to the proposed water and wastewater rate schedules for fiscal years beginning July 1, 2025 through 2029 by explaining the grounds for which the objections are not resulting in amendments to the proposed rates, and proceeding with the Proposition 218 public protest hearing pursuant to the requirements of Government Code Section 53759.1.

EXECUTIVE SUMMARY

In September 2024, the California State legislature adopted Assembly Bill 2257, which requires effective January 1, 2025, that would-be challengers to proposed water and wastewater rate changes exhaust administrative remedies by timely submitting substantive, written objections to the City. Failure to meet this requirement precludes would-be challengers from later bringing litigation that would challenge the City's proposed water and wastewater rate change. This item will summarize all written objections received prior to the March 5, 2025 deadline for submission, assess the merits of written objections received, and recommend that Council, by resolution, respond to the written objections in a manner consistent with the requirements of AB 2257.

SUMMARY OF AND RESPONSE TO WRITTEN OBJECTIONS RECEIVED PURSUANT TO STATE BILL AB 2257 (2025), REQUIRING WOULD-BE CHALLENGERS TO EXHAUST ADMINISTRATIVE REMEDIES WITH RESPECT TO PROPOSED WATER AND WASTEWATER RATES FOR FISCAL YEARS BEGINNING JULY 1, 2025 – 2029 BY TIMELY FILING WRITTEN OBJECTIONS PRIOR TO INITIATING LITIGATION CHALLENGING PROPOSED WATER AND WASTEWATER RATES
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BACKGROUND

On September 25, 2024, the Governor approved State Assembly Bill 2257. This bill amends CA Government code to add sections 53759.1 and 53759.2. Per the text of the bill

“The purpose of this act is to create an exhaustion of administrative remedies procedure that, if a local agency chooses to implement it, requires ratepayers to bring an objection regarding a proposed property-related water or sewer fee or charge, or any special assessment to the local public agency governing body’s attention prior to the deadline established by the local public agency as part of the rate or assessment consideration process. The purpose of the act is also to provide an opportunity for the local public agency to address or resolve the objection or objections before its governing body makes a final decision on whether to establish a new, or amend a current, property-related fee or special assessment pursuant to Proposition 218”.

Per Government Code section 53759.1, subdivision (d), the City has 4 options in responding to written objections received:

- (1) Whether the written objections and the agency’s response warrant clarifications to the proposed fee or assessment.
- (2) Whether to reduce the proposed fee or assessment.
- (3) Whether to further review before making a determination on whether clarification or reduction is needed.
- (4) Whether to proceed with the protest hearing or ballot tabulation hearing required under Section 4 or 6 of Article XIII D of the California Constitution.

PRIOR CITY COUNCIL REVIEW

City Council received information on AB 2257 and the new written objections procedure as part of its January 7, 2025, study session on the proposed water and wastewater rates for fiscal years beginning July 1, 2025 through 2029. City Council was supportive of adopting a written objectives procedure availing the City of the exhaustion requirement as part of the proposed water and wastewater rate adoption process.

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ANALYSIS

Santa Rosa Water contracted with Hildebrand Consulting, LLC, to perform financial modeling and make recommendations to the Budget Subcommittee of the Board of Public Utilities, the Board of Public Utilities, and City Council regarding a proposed 5-year increase in water and wastewater rates to take effect beginning July 1, 2025. The process of adopting increased rates for water and wastewater services are subject to the legal requirements of California Proposition 218. To ensure compliance with Proposition 218, Hildebrand Consulting, LLC performed and delivered a 2024 Comprehensive Water and Wastewater Rate Study Report detailing the proposed 5-year rate increase.

On January 15, 2025, Santa Rosa Water mailed, pursuant to Proposition 218, Notices of Public Hearing and Proposed Increases to Water and Wastewater Rates for 2025-2029 (Notice) to 58,470 Santa Rosa Water customers and property owners with Santa Rosa Water's service area. The Notice included information on how Santa Rosa Water customers and ratepayers could, pursuant to AB 2257, timely submit written objections to the City. Written objections were due to the City Clerk's office by close of business March 5, 2025.

The City Clerk's office received 10 timely submitted written objections pursuant to AB 2257. Of the 10 objections received, most express various policy rationale for why the proposed rates should not be implemented, including expressing concerns with rising cost and affordability. These policy objections, however, do not raise a legal issue as is necessary for a valid written objection to exhaust administrative remedies. As to these policy arguments, Santa Rosa Water recommends that Council consider them insufficient to exhaust administrative remedies. A minority of the objections were raised legal issues and Santa Rosa Water provided a written response explaining why the City's rate proposals comply with applicable law, including Proposition 218. Copies of the 10 written objections are included as Exhibit A (redacted to omit personally identifying information). The City's written responses to each objection are set forth in Exhibit B.

For the 10 responsive written objections received, Santa Rosa Water recommends that Council, by resolution, respond to all the objections by articulating the grounds for which each challenge is not resulting in amendments to the proposed rates and proceeding with the protest hearing for the proposed rates as required by California Proposition 218, consistent with the requirements of Government Code 53759.1(d)(4).

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FISCAL IMPACT

This item has no impact to any of Santa Rosa Water’s operating funds or the City’s General Fund.

ENVIRONMENTAL IMPACT

Pursuant to CEQA Guidelines Section 15378, the proposed action is not a “project” subject to the California Environmental Quality Act (CEQA) because it does not have a potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. In the alternative, the proposed action is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the project may have a significant effect on the environment.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

On November 6, 2024, the Budget Subcommittee of the Board of Public Utilities met to review the proposed rates and the cost-of-service study and recommended approval by the Board of Public Utilities.

On December 5, 2024, the Board of Public Utilities held a study session on the recommended rates and the cost-of-service study.

On December 19, 2024, the Board of Public Utilities heard a report item on the proposed rates, recommended utilizing the AB 2257 written objectives procedure, and passed a resolution recommending that City Council, after compliance with Proposition 218 and successful conclusion of a protest hearing 1.) Enact increased rates for Water services and 2.) Enact increased rates for wastewater services.

NOTIFICATION

On January 15, 2025, the City mailed written notice, including detailed information on the proposed rate increases, outlining how to timely provide a written objection pursuant to AB 2257, and specified the date, time and location of the public hearing by which written protests to the proposed rate change must be submitted, to approximately 58,470 customers and property owners.

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ATTACHMENTS

- Resolution
 - Exhibit A – Written Objections
 - Exhibit B – Response to Written Objections

PRESENTER

Jennifer Burke, Director – Santa Rosa Water
Dustin Cooper, Interim Assistant City Attorney, Minasian Law