



June 4, 2026

Hon. Chris Ward
State Capitol Annex
Sacramento, CA 95814

Re: Assembly Bill 2180 (Ward)

Dear Assemblyman Ward,

This is to inform you that the Howard Jarvis Taxpayers Association **must oppose your Assembly Bill 2180**. AB 2180 attempts to codify the unsettled decision in *Dreher v. Los Angeles Dept. of Water & Power* that is currently before the California Supreme Court. The proper interpretation of Proposition 218 is an issue for the Supreme Court to resolve, not the Legislature.

The view that courts look to the Legislature to clarify constitutional language is mistaken. In fact, one of the most widely cited cases in the history of the United States is *Marbury v. Madison* (1803) 5 U.S. 137, which fundamentally shaped American legal standards by affirming the judiciary's role in interpreting the Constitution and safeguarding democratic principles. Under that foundational rule, the Legislature is not empowered to interpret the Constitution, and legislation that conflicts with judicial interpretation of the Constitution is void. Therefore, courts do not "look to the Legislature" to interpret the Constitution.

The California Supreme Court has also made clear that legislation implementing a constitutional provision must remain subordinate to the constitutional text and may not narrow its protections. In *Hale v. Bohannon*, the Court held that legislation affecting a constitutional right "must be subordinate to the constitutional provision, and in furtherance of its purpose, and must not in any particular attempt to narrow or embarrass it." (*Hale v. Bohannon* (1952) 38 Cal.2d 458, 471)

The Supreme Court reaffirmed that principle in the Proposition 218 context in *Silicon Valley Taxpayers' Assn., Inc. v. Santa Clara County Open Space Authority*, emphasizing that Proposition 218 was adopted to limit the government's power to exact revenue and to curtail deference to legislative judgments. (*Silicon Valley Taxpayers' Assn., Inc. v. Santa Clara County Open Space Authority* (2008) 44 Cal.4th 431, 448)

AB 2180 is the type of legislation *Hale* and *Silicon Valley Taxpayers* caution against. By allowing agencies to justify proportionality through broader allocation methods across parcels or customer classes, and by expressly stating that tier breakpoints need not have any cost-based justification, the bill does more than provide evidentiary tools. It redefines the constitutional

inquiry itself. It allows agencies to satisfy their burden through a looser standard than the one set out in section 6(b)(3), and in doing so narrows the protections secured by Proposition 218.

The Legislature is not empowered to preempt judicial interpretation of constitutional issues. If this bill is enacted and the California Supreme Court subsequently concludes that *Dreher* is correct, then this bill becomes unnecessary. If the Court concludes that *Dreher* got it wrong, the legislation would be unconstitutional.

For that reason alone, the bill is improper. The California Supreme Court will decide.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Kaufman", with a stylized, flowing script.

Scott Kaufman
Legislative Director