Case No. C103356

[Exempt From Filing Fee
Government Code § 6103]

In the Court of Appeal, State of California

THIRD APPELLATE DISTRICT

DAVID GARST, as Trustee, etc., Plaintiff and Respondent,

vs.

TEHAMA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
Defendant and Appellant.

Appeal from the Superior Court of the State of California,
County of Tehama, Case No. 23CI000079
Honorable Bradley L. Boeckman, Judge Presiding

APPLICATION FOR LEAVE TO FILE AMICI CURIAE BRIEF; AMICI CURIAE BRIEF OF LEAGUE OF CALIFORNIA CITIES, CALIFORNIA STATE ASSOCIATION OF COUNTIES, AND CALIFORNIA SPECIAL DISTRICTS ASSOCIATION, IN SUPPORT OF APPELLANT TEHAMA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

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CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

This is the initial certificate of interested entities or persons submitted on behalf of Amici Curiae League of California Cities, California State Association of Counties, and California Special Districts Association ("Amici") in the case number listed above.

Besides Amici, the Parties to this action, and present and potential users of groundwater in Tehama County, there are no interested entities or persons that must be listed in this certificate under California Rule of Court 8.208.

Dated: November 26, 2025

BEST BEST & KRIEGER LLP

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Plaintiff and Respondent,

vs.

TEHAMA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT
Defendant and Appellant.

APPLICATION FOR LEAVE TO FILE AMICI CURIAE BRIEF IN SUPPORT OF DEFENDANT AND APPELLANT TEHAMA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

Pursuant to Rule 8.200 subdivision (c)(1) of the California Rules of Court, the League of California Cities ("Cal Cities"), the California State Association of Counties ("CSAC"), and the California Special Districts Association ("CSDA" and, together with Cal Cities and CSAC, "Amici") respectfully apply for permission to file an Amici Curiae Brief in support of Defendant and Appellant Tehama County Flood Control and Water Conservation District.

Cal Cities is an association of 472 California cities dedicated to protecting and restoring local control to provide for the public health, safety, and welfare of their residents, and to enhancing the quality of life for all Californians. Cal Cities is advised by its Legal Advocacy

Committee, comprised of 27 city attorneys from all regions of the State. The Committee monitors litigation of concern to municipalities, and identifies those cases that have statewide or nationwide significance. The Committee has identified this case as having such significance.

CSAC is a non-profit corporation. The membership consists of the 58 California counties. CSAC sponsors a Litigation Coordination Program, which is administered by the County Counsels' Association of California and is overseen by the Association's Litigation Overview Committee, comprised of county counsels throughout the state. The Litigation Overview Committee monitors litigation of concern to counties statewide and has determined that this case is a matter affecting all counties.

CSDA is a nonprofit corporation with a membership of over 1,000 special districts throughout California that was formed to promote good governance and improve core local services through professional development, advocacy, and other services for all types of independent special districts. Independent special districts provide a wide variety of public services to urban, suburban, and rural communities, including irrigation, water, recreation and parks, cemetery, fire protection, utilities, harbor, healthcare, community service districts, and more. CSDA is advised by its Legal Advisory

Working Group, comprised of attorneys from all regions of the state with an interest in legal issues related to special districts. CSDA has identified that this case is significant to special districts throughout California.

Members of Cal Cities, CSAC, and CSDA are charged with the protection of vital natural resources in order to provide essential public services. Paramount amongst these is water. Local governments must be empowered to exercise statutory powers and collect constitutional revenues to effectively manage groundwater at critical risk of deterioration. Further, procedural prerequisites to filing suit are necessary to preserve fiscal integrity, revenue stability, and avoid costly litigation. Such procedural prerequisites must be protected, not ignored, particularly with respect to provision of essential public functions. This case directly implicates both of these issues.

For these reasons, Amici respectfully requests leave to file the Amici Curiae Brief attached.

In compliance with subdivision (c)(3) of Rule 8.200, the undersigned counsel represents that he authored this brief in its entirety on a pro bono basis; that his firm is paying for the entire cost of preparing and submitting the brief; and that no party to this action, or any other person, authored the brief or made any monetary contribution to help fund the preparation and submission of the brief.

Dated: November 26, 2025

BEST BEST & KRIEGER LLP

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BRIEF OF AMICI CURIAE IN SUPPORT OF DEFENDANT AND APPELLANT TEHAMA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

INTRODUCTION

Sustainable groundwater management is critical to water security and maintaining long-term water supplies. It is so critical that the Legislature established a comprehensive statutory scheme to mandate local groundwater management and protection. This statutory scheme, known as the "Sustainable Groundwater Management Act" or "SGMA" (Wat. Code, §§ 10720-10737) places the power and vital responsibility to protect California's groundwater in the hands of local agencies through formation of Groundwater Sustainability Agencies ("GSAs"). To that end, SGMA grants significant authority and power to GSAs to fulfill this duty, and fundamental to this role is the ability to gather information.

Understanding how, where, when, and how much groundwater is extracted is foundational. GSAs must understand these baseline facts to anticipate supply and demand patterns, establish plans for groundwater management, identify metrics to quantify and qualify success, and mitigate impacts of ongoing groundwater reliance.

The Legislature further recognized that groundwater management costs money. SGMA grants independent, supplemental authority to establish fees and charges not only for the implementation of ongoing groundwater management activities, but also, to recover the entirety of costs to regulate beneficiaries of groundwater management, conduct investigations and analyses, and develop plans for groundwater management. And no plan can be formulated until sufficient information is gathered. Thus, SGMA explicitly provides for fees for data collection.

Funding these activities is so critical that the Legislature not only identified, with specificity, a non-exhaustive list of costs that revenues could be utilized for fulfilling GSA obligations and powers, but also, implemented specific time limitations and pre-suit remedies litigants must exhaust to bring an action to court. These requirements are put in place for the explicitly to protect critical funding and ensure stable revenues.

In the current case, the Tehama County Flood Control and Water Conservation District ("District"), acting as the sole GSA for Tehama County ("County"), adopted a Well Registration Fee ("Fee"), in accordance with Water Code section 10730 for the purpose of funding data collection necessary for SGMA compliance. The District is being penalized for doing exactly what statute and the Legislature require: developing and implementing local strategy for groundwater management. The District is in its formative phase, therefore necessitating comprehensive data to develop detailed plans for groundwater management. To gather that data, the District imposes a modest fee on payors in their capacities as beneficiaries of groundwater, either through their own wells or wells on neighboring parcels.

This case asks the Court to consider whether those revenues are truly worth protecting, and whether statutory limitations and pre-suit exhaustion requirements the Legislature enacted in SGMA for the purpose of stabilizing vital GSA revenue are in fact enforceable. The answer to both questions is yes. The legal justifications are set forth clearly in the District's opening and reply briefs, and Amici join in the District's arguments in full. The purpose of this brief is to assist the Court in understanding *why* protecting the funding source for SGMA's foundational activity – data gathering – is critical, and *why* preserving long-standing precedent enforcing statutory limitations and pre-suit exhaustion requirements matters.

For these reasons, Amici respectfully request that this Court reverse the trial court's decision below.

STATEMENT OF CASE

For the sake of brevity, Amici incorporate by reference the Factual and Procedural Statement set forth in the District's Opening Brief.

/ / /

ARGUMENT

I. SGMA's Foundational Policy Requires Protection of GSA Revenues for Developing and Implementing Groundwater Management Practices.

A. Circumstances Leading to SGMA's Enactment.

California relies heavily on groundwater. Even where other sources of water are available, groundwater acts as an effective drought buffer during periods of water shortage. Further, ever-growing periods of severe water shortage has resulted in increased groundwater reliance. Despite these facts, prior to SGMA's adoption, California lacked coordinated, centralized groundwater management. In fact, California was the only Western state without centralized groundwater management.[1]

The lack of centralized groundwater management came to the forefront in 2012 through 2016, during which California experienced one of the most critical periods of water shortage. This severe drought brought California's heavy groundwater reliance to the spotlight.[2]

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[1] Office of the Governor, Press Release: Governor Brown Signs Historic Groundwater Legislation (Sept. 16, 2014), *https://archive.gov.ca.gov/archive/gov39/2014/09/16/news18701/index.html*
[2] Dep't of Water Res., Drought (as of Nov. 19, 2025), *https://water.ca.gov/drought/*.

Specifically, this crisis revealed widespread overdraft and the absence of coordinated, enforceable management.[3]

In a 2013 report on California groundwater, the Department of Water Resources ("DWR") estimated that groundwater provided between 38% to 46% of annual supply on average, with some municipal, agricultural, and disadvantaged communities relying on groundwater for up to 100% of water supply needs.[4] At the same time, many of California's 515 groundwater basins experienced chronic overdraft, where pumping exceeded natural recharge.[5]

Tehama County exemplifies challenges with significant groundwater reliance. Tehama County's increased dependence on groundwater and extraction pressures has resulted in "negative impacts such as wells going dry, falling water tables, and land subsidence concerns."[6] At the same time, the County and DWR have identified significant data gaps in groundwater monitoring

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[3] Office of the Governor, Press Release: Governor Brown Signs Historic Groundwater Legislation (Sept. 16, 2014), *https://archive.gov.ca.gov/archive/gov39/2014/09/16/news18701/index.html*

[4] Dep't of Water Res., California's Groundwater Update 2013 (as of Nov. 4, 2025) p. 1-1 – 1-2, *https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/Groundwater-Management/Data-and-Tools/Files/Statewide-Reports/California-Groundwater-Update-2013/California-Groundwater-Update-2013---Statewide.pdf*

[5] *Id.* at p. 1-3

[6] Tehama County Flood Control & Water Conservation Dist., Groundwater Demand Management Factsheet (Aug. 8, 2025, as of Nov. 4, 2025) *https://tehamacountywater.org/updates/2025/08/08/factsheet-and-survey-for-groundwater-demand-management/*

networks.[7,8] This data is critical to determining the extent of the problem and, more importantly, how to fix it through successful implementation of groundwater management practices.

Excessive groundwater extraction causes land subsidence. Land subsidence damages state and local infrastructure and threatens sustainable water supply. DWR warned that continued subsidence reduces canal capacity, impairs flood protection, and permanently diminishes aquifer storage.[9] For example, a 2015 NASA Jet Propulsion Laboratory study found portions of the San Joaquin Valley were sinking nearly two inches per month during the drought, jeopardizing levees, canals, and roads.[10]

This backdrop shows the significant governance lapse and need for a centralized structure for local groundwater management. It further shows how important successful implementation of groundwater management is to the sustainability of groundwater supplies in California, particularly with projected increased

[7] *See e.g.* Red Bluff Subbassin Groundwater Sustainability Plan Chapter 4 – Projects and Management Actions, p. 4-2 (Jan 2022, Rev. April 2024, as of Nov. 4, 2025), *https://tehamacountywater.org/wp-content/uploads/2024/06/10_Chapter-4_Red-Bluff_Revised_CLEAN.pdf*

[8] Univ. of Cal., Div. of Agric. & Nat. Resources, Groundwater Management | Tehama County (as of Nov. 19, 2025) *https://ucanr.edu/county/tehama-county/groundwater-management*

[9] Dep't of Water Res., Land Subsidence in California (as of Nov. 4, 2025), *https://water.ca.gov/Programs/Engineering-And-Construction/Subsidence*

[10] NASA Jet Propulsion Lab., California Drought Causing Valley Land to Sink (Aug. 19, 2015, as of Nov. 4, 2025), *https://www.jpl.nasa.gov/news/nasa-california-drought-causing-valley-land-to-sink/*

fluctuations in precipitation resulting from climate change in the years to come. In other words, the context within which SGMA was enacted underscores the importance of preserving the powers and authorities, with reasonable flexibility, set forth therein.

B. SGMA Establishes a Framework for Critical Groundwater Management by Local Agencies

SGMA was adopted in light of the groundwater conditions described above, in order to achieve sustainable, local groundwater management. The California Legislature enacted SGMA in 2014 as part of a three-bill package (Assem. Bill No. 1739 (2013–2014 Reg. Sess.); Sen. Bill No. 1168 (2013–2014 Reg. Sess.); Sen. Bill No. 1319 (2013–2014 Reg. Sess.).) SGMA, which is codified at Water Code section 10720 *et seq.*, established a novel, comprehensive framework for sustainable groundwater management by requiring local GSAs to adopt and implement Groundwater Sustainability Plans ("GSPs"). (Wat. Code, § 10727.)

SGMA is intended to provide for sustainable management of groundwater basins through establishing minimum standards for groundwater management, and providing local GSAs with the authority and the technical and financial assistance necessary to sustainably manage groundwater. (Wat. Code, § 10720.1.) The

Legislature set forth its intent in enacting SGMA in great detail in section 10720.1, stating explicitly that they intended SGMA to "improve data collection and understanding about groundwater." (Wat. Code, § 10720.1, subd. (f).)

C. The Legislature Specifically Intended SGMA to Facilitate Investigations and Data Collection.

Data collection is not optional in effectively managing groundwater. It is the backbone of how GSAs can effectively develop plans, programs, strategies, and actions to manage basins, particularly those in critical overdraft. It is so central to SGMA that it was written into the statutorily-enacted legislative intent underpinning SGMA itself. (Wat. Code §10720.1, subd. (f).)

Data collection is central to every stage of preparing a GSP because SGMA is a statutory scheme designed to achieve a tangible, critical result: effective and comprehensive groundwater management. As such, GSAs must demonstrate, with empirical evidence, that their management actions will prevent the occurrence of "undesirable results" and achieve long-term sustainability. (Wat. Code, § 10721, subd. (x); Cal. Code Regs., tit. 23, §§ 354.22-354.30.)

And in order to develop effective management actions, the GSA must know what problems the GSP must address. This means that early-stage GSAs must quickly build factual baselines to develop plans for local groundwater management. At the most basic level, the GSA must understand who is pumping, from where, and how much, and conditions of the basin. Without sufficient data, GSAs cannot make the technical findings required to define sustainable management criteria or measure progress toward achieving those criteria.

SGMA explicitly requires GSP to include certain baseline data, including a description of the physical setting and characteristics of the basin, and the aquifer system underlying the basin, specifically identifying factors such as historical data, groundwater quality and levels, projected and historic demand and supplies, and potential for recharge. (Wat. Code, § 10727.2, subd. (a).) This baseline data provides the factual foundation for understanding the basin's hydrogeologic setting and historical groundwater conditions. Data deficiencies at this stage can produce unreliable assumptions, undermining both the GSP's effectiveness and legal sufficiency.

D. California Law Authorizes Fees for Data Collection so Long as They Do Not Exceed Cost, and Bear a Fair or Reasonable Relationship to the Payor's Burdens on or Benefits from the Regulatory Activity.

Both SGMA and the California Constitution contemplate imposition of fees for the purpose of data collection, at times prior to actual regulatory activity being performed. Article XIII C, section 1(e) provides that a levy of any kind is a tax unless exempt, and section 1(e)(3) exempts fees "imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof." (Cal Const., art. XIII C, §1, subd. (e), par. (3).) SGMA provides similar authority, authorizing fees "to fund the costs of a groundwater sustainability program, including, but not limited to, preparation, adoption, and amendment of a groundwater sustainability plan, and investigations, inspections, compliance assistance, enforcement, and program administration, including a prudent reserve." (Wat. Code, § 10730, subd. (a).)

This authority is largely the same as authority existing prior to the constitutional limitation set forth above. In 1988, for example, the

Court of Appeal found that regulatory fees were not “special taxes” if they did not exceed reasonable cost of the regulatory activity. “[T]o show a fee is a regulatory fee and not a special tax, the government should prove (1) the estimated costs of the service or regulatory activity, and (2) the basis for determining the manner in which the costs are apportioned, so that charges allocated to a payor bear a fair or reasonable relationship to the payor’s burdens on or benefits from the regulatory activity.” (*San Diego Gas & Electric Co. v. San Diego County Air Pollution Control Dist.* (1988) 203 Cal.App.3d 1132, 1145–1146.) This test mirrors Proposition 26’s 2010 amendment to the California Constitution described above. (*Griffith v. City of Santa Cruz* (2012) 207 Cal.App.4th 982, 996.)

As such, courts have consistently looked to the nature of the payor to determine whether a fee is valid for regulatory purposes. For example, in 2001, the City of Los Angeles’s apartment inspection fee imposed on private landlords was challenged as a property-related fee in violation of article XIII D of the California Constitution, simply because it was imposed on owners of property used for multi-family housing. The Court upheld the fee, finding that it was imposed “not imposed solely because a person owns property. Rather, it is imposed because the property is being rented. It ceases along with the business operation, whether or not ownership remains in the same hands.”

(*Apartment Assn. of L.A. County, Inc. v. City of L.A.* (2001) 24 Cal.4th 830, 838.) The fee was imposed on property owners who engaged in residential rental business and only while they were operating the business. (*Id.*)

A similar inspection fee was challenged after the adoption of article XIII C, § 1(e) of the California Constitution. (*Griffith v. City of Santa Cruz, supra,* 207 Cal.App.4th 982.) The Court noted that the fee at issue was imposed to cover inspection costs, and was therefore expressly exempt from the definition of a "tax" under article XIII C, § 1(e)(3). (*Id.* at p. 996.) Further, so long as it was supported by evidence showing that the fee did not exceed the cost of the regulatory activity, it was valid. Notably, while the City did provide evidence in the form of declarations, it did not provide a comprehensive cost of service analysis or detailed audit; it simply provided a declaration from staff reciting the estimated costs, predicting the number of inspections, and the resulting average cost per inspection. (*Id.* at p. 997.) In other words, the Court did not require an exacting analysis and cost allocation, instead upholding the fee based on available data. (*Id.* [costs need not be "finely calibrated to the precise benefit each individual fee payor might derive[]"].)

This is similar to the District's Fee, which is imposed on parcels that benefit from the groundwater basin, and only to the extent that they have not complied with the requirements of the well registration program. (Appellant's Opening Brief, pp. 29-30.) As Appellant points out, the District ceased imposing the Fee on Petitioner when he complied with the well registration program. (*Id.*)

E. Restricting Nascent GSAs' Revenue Raising Abilities Impedes SGMA's Fundamental Purpose.

The District is the exclusive GSA in the County, responsible for managing seven subbasins or portions of subbasins located within the County. As is the case with GSAs across the state, the District is charged with the critical task of managing groundwater throughout the County in accordance with SGMA's requirements and objectives. The GSA's foundational steps require gathering information about groundwater demands.

As such, on June 21, 2022, the District adopted the Fee to fund a well registration program in order to better assess demands and necessary actions associated with managing groundwater in the subbasins. According to the District's "Frequently Asked Questions" the District did "not have an accurate count of the number of wells," and lacked data on approximately 50% of all wells.[11] As such, the

[11] Tehama County Groundwater Sustainability Agency Annual Fee for the Well Registration Program Frequently Asked Questions (as of November 19, 2025)

District imposed the Fee on all benefiting parcels, and the payor was charged not in their capacities as landowners, but rather, as groundwater beneficiaries.

This case highlights the primary foundational problem for GSAs - developing a data-based understanding of the problems they must solve. This includes understanding the scope of groundwater degradation, land subsidence, and demand patterns on the subbasins. Fundamental to that understanding is data showing who is pumping, where they are pumping, and how much they are pumping. The next step would be for the District to synthesize this data into actionable plans and programs.

It is true that better data leads to a more finely calibrated fee structure. However, it is also true that the Fee can only be as precise as the data supporting it. In other words, a GSA cannot have a perfectly calibrated fee before it develops the data supporting such a fee. This "cart before the horse" approach assumes a level of specificity rejected by California courts in the context of regulatory fees, particularly for data gathering. Further, it undermines the purpose of SGMA, which is intended in part to empower local governments to gather sufficient data for effective groundwater management. Central

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https://tehamacountywater.org/wp-content/uploads/2023/01/Well-Registration-Draft-FAQ-Final.pdf to this information is an understanding of the condition and demands on the subbasin.

An alternative understanding runs the risk of hamstringing nascent and developing local GSAs from taking those first critical, foundational steps toward protecting groundwater supplies.

F. Preventing GSAs From Raising Revenue for Data Gathering Infringes on Local Control, a Central Goal Driving SGMA.

The Legislature intended SGMA to "manage groundwater basins through the actions of local governmental agencies to the greatest extent feasible, while minimizing state intervention to only when necessary to ensure that local agencies manage groundwater in a sustainable manner." (Wat. Code, § 10720.1, subd. (h).) To that end, SGMA vests significant power to local governments, including:

- Forming local GSAs (Wat. Code, §§ 10723-10724);
- Developing locally tailored plans (Wat. Code, §§ 10727-10728.6); and
- Locally define sustainability criteria and monitoring networks based on local conditions (Cal. Code Regs., tit. 23, §§ 354.28-354.36);

State intervention is intended as a backstop only. (Wat. Code, §§ 10735-10736.6.) One reason the State may intervene is if the State Water Resources Control Board ("Board") determines that a groundwater sustainability plan is inadequate, or a groundwater sustainability program is unlikely to achieve sustainability goals. (Wat. Code, § 10735.2, subd. (a), par. (3).)

> A cornerstone of [SGMA] "is a transfer of responsibility for groundwater management from the state to local jurisdictions when possible." Thus, [SGMA] generally requires actions by local groundwater agencies, which are then subject to evaluation and assessment by the state through the Department of Water Resources (the Department). However, if certain actions are not taken, the adopted groundwater plans are deemed inadequate, or the groundwater plans are not being implemented in a manner that will meet the sustainability goal, the State Board may intervene at one of several intervention points and designate the basin as a probationary basin.
>
> . . .
>
> Although preferring local management, part of the penalty when intervention becomes necessary is the imposition of state mandates. These mandates are triggered by the probationary basin designation. Once that designation is made, local agencies are given a period of time—either 180 days or one year depending on the basis for the intervention—to remedy any errors leading to the intervention. If the groundwater plan is not corrected, the State Board is given the right to develop and eventually adopt its own interim plan.
>
> In addition, another set of statutes are triggered after a probationary designation. Under these statutes, certain entities that extract groundwater from a probationary basin more than 90 days after that designation are required to submit reports concerning their extractions to the State Board and pay associated fees. The reports

> include monthly records of the extractions, measured "by a methodology, water-measuring device, or combination thereof satisfactory" to the State Board, among other things. The fees imposed are designed for the State Board to recover the costs of the intervention process, "in an amount sufficient to cover all costs incurred and expended from the Water Rights Fund," and can be spread over multiple years. Failing to file the required reports may result in an investigation by the State Board that must be paid for by the person investigated and potential criminal and civil penalties.

(*Kings County Farm Bur. v. State Water Resources Control Bd.* (Oct. 29, 2025, F088720) 2025 WL 3022748) *2) (citations omitted.)

The risk of a loss of local control are significant and real, demonstrated by previous State interventions. On March 2, 2023, after evaluating GSPs in critically overdrafted groundwater basins subject to SGMA, DWR found that six basins' plans were inadequate. On February 27, 2025, DWR found one additional GSP for the Pleasant Valley Subbasin was inadequate. Basins that are deemed inadequate by DWR may be subject to state intervention by the State Water Resources Control Board.[12]

In order to avoid State intervention, groundwater sustainability programs must have a good chance of achieving sustainability goals. The likelihood of success depends in large part on developing a GSP designed to meet the specific needs of the impacted basin. Restricting

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[12] State Water Resources Control Bd., Groundwater Basins (Sustainable Groundwater Management Program) (as of Nov. 24, 2025) ***https://www.waterboards.ca.gov/sgma/ groundwater_basins/***.

local GSAs from generating revenue to meet the data needs necessary to meet sustainability goals through effective plans increases risks State intervention, in direct contravention of the Legislature's intent in enacting SGMA. Without the tools and funds necessary to build a solid understanding of groundwater management needs, GSAs will face unnecessary difficulty and risk in addressing and meeting sustainability goals.

II. Statutory Requisites to Challenging Fees are Necessary to Maintain Fiscal Integrity and Revenue Stability, and Preserve Local Technical Expertise over Claim Resolution.

The District articulated three separate procedural prerequisites Respondent failed to meet prior to challenging the Fee: Respondent filed his lawsuit after SGMA's 180 day statute of limitations;[13] Respondent failed to exhaust administrative remedies set forth in SGMA;[14] and Respondent failed to comply with the Government Claims Act.[15] For the reasons set forth in the District's papers, each of

[13] "Any judicial action or proceeding to attack, review, set aside, void, or annul the ordinance or resolution imposing a new, or increasing an existing, fee imposed pursuant to Section 10730, 10730.2, or 10730.4 shall be commenced within 180 days following the adoption of the ordinance or resolution." (Wat. Code, § 10726.6, subd. (c).)

[14] "Any person may pay a fee imposed pursuant to Section 10730, 10730.2, or 10730.4 under protest and bring an action against the governing body in the superior court to recover any money that the governing body refuses to refund." (Wat. Code, § 10726.6, subd. (d).)

[15] "Except as provided in Sections 946.4 and 946.6, no suit for money or damages may be brought against a public entity on a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) and Chapter 2

these three failures is dispositive and bars any relief in this challenge, and Amici join in the District's legal arguments in full.

These requirements are jurisdictional, and cannot be disregarded or ignored. The District's position is not only supported by binding law, described in detail in Appellant's Opening and Reply Briefs, but good and critical policy that must be upheld.

A. Timely Claims are Necessary to Protect Local Fiscal Integrity and Revenue Stability.

Local governments throughout California are charged with providing essential public services, whether that be groundwater management, utility service, law enforcement, or maintaining public spaces. Each of these activities cost money. Disruptions and the looming specter of having to return budgeted, appropriated, and relied-upon revenues impedes the ability to provide essential public services.

Statutes of limitation are therefore especially important in the context of challenges to local government revenue streams. They accomplish an important policy objective: "the planning requirements

(commencing with Section 910) of Part 3 of this division until a written claim therefor has been presented to the public entity and has been acted upon by the board, or has been deemed to have been rejected by the board, in accordance with Chapters 1 and 2 of Part 3 of this division." (Gov. Code, § 945.4.)

of financially constrained local agencies . . . necessitate a relatively short statute of limitations so that local agencies will be promptly informed of any challenges to their ability to collect fees and spend the revenues thereby generated." (*San Marcos Water Dist. v. San Marcos Unified School Dist.* (1987) 190 Cal.App.3d 1083, 1085 [interpreting former Gov. Code § 54995's statute of limitations for certain impact fees].)

Similarly, in 2021, the California Legislature enacted Senate Bill No. 323 (Caballero) ("SB 323"), adding section 53759 to the Government Code ("Section 53759"). SB 323 was introduced to provide certainty for local public agencies by establishing clear procedural rules and deadlines for litigating water and sewer rate challenges, including a 120 day statute of limitations to challenge any water or sewer fee or assessment.[16] While SB 323 does not apply directly to SGMA fees, the Legislature's intent in enacting SB 323 similarly supports Water Code § 10726.6(c): "The Legislature has long recognized that certain actions taken by state and local agencies would suffer or be rendered ineffective if subject to protracted adjudication." (Assem. Com. on Local Government, Sen. Bill No. 323 (2021-2022 Reg. Sess.) as Amended Apr. 5, 2021, p. 5.) Further, failure to enforce

[16] Sen. Com. on Governance and Finance, Rep. on Sen. Bill No. 323 (2021-2022 Reg. Sess.) as amended Mar. 17, 2021, p. 1.

statutes of limitation interferes with the ability to plan for claims, which "effects funding necessary to supply safe drinking water, upgrade and improve aging infrastructure, and operate effectively." (*Id.* at p. 2.)

Respondent articulates no clear reason for failing to comply with procedural prerequisites, and instead relies on implausible readings of the statute to render Water Code § 10726.6 ineffective. Such arguments would undermine the policy considerations supporting timely presentation and resolution of challenges to local revenues both inside and outside of SGMA.

B. Payment Under Protest Requirements Bring Legal Objections to the Attention of the Local Government Early, Allowing Potential for Prompt Resolution and Avoiding Litigation.

Water Code § 10726.6(d)'s pay-under-protest requirement protects GSAs from needless litigation by requiring a rate payer who intends to challenge a fee or charge imposed pursuant to SGMA to notify the GSA of the objection by paying the disputed fee or charge under protest. This ensures that revenues needed to pay for essential GSA costs are not disrupted every time someone raises a legal objection. Further, by bringing the issue to the GSA early, before a lawsuit has been filed, it gives the GSA the opportunity to resolve valid claims and avoid expensive litigation.

"The payment under protest requirement provides fiscal protection to the collecting entity, as payment received under protest puts the entity on notice that a refund may eventually be required." (*Padilla v. City of San Jose* (2022) 78 Cal.App.5th 1073, 1077.) This procedural protection is particularly important for GSAs because of the dire conditions of groundwater, the need for immediate data collection, and the requirement to implement best practices without delay. Moreover, both SGMA and the California Constitution impose strict limitations on how much a GSA can recover, and any additional costs imposed by litigation could directly impact the provision of these essential services.

The pay-under-protest requirement therefore operates to preserve scarce funds for the provision of essential services by local governments and for the public who funds local governments and these services. The trial court's ruling that exhaustion was not required must be reversed.

CONCLUSION

SGMA was enacted to empower local governments to address the immediate risks to groundwater. While local government revenues are restricted both by the California Constitution and

SGMA's fee statutes, such limitations are not intended to impede a significant legislative purpose underpinning SGMA itself: to gather information to identify and rectify threats to groundwater. To the contrary, GSAs are specifically empowered to conduct investigations for the purpose of regulating groundwater usage, and to charge fees for such regulation to those benefiting from the regulation. Accordingly, the District imposed the Fee on payors benefiting from groundwater regulation, for the purpose of meeting statutory obligations under SGMA and developing more advanced plans for groundwater management. Such authority is critical to GSAs across the State.

Further, procedural prerequisites for challenging local government revenues exist for a purpose: to ensure revenue stability and prompt resolution of claims. Disregarding such prerequisites places local government revenues, and the purposes for which they are imposed, at great risk. Given the gravity of the tasks the Legislature placed with GSAs, such prerequisites to filing suit must be carefully protected.

As such, Amici respectfully urge this Court to reverse the trial court's judgment in full, to ensure consistency with established law, guard important protections for local revenues, and preserve flexibility in accomplishing SGMA's vital objectives.

Dated: November 26, 2025

BEST BEST & KRIEGER LLP

Lutfi Kharuf
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League of California Cities,
California State Association of
Counties, and California Special
Districts Association

CERTIFICATE OF WORD COUNT

The text of this brief consists of 5199 words according to the word count feature of the computer program used to prepare this brief.

Dated: November 26, 2025

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Districts Association

CERTIFICATE OF SERVICE

David Garst vs. Tehama County Flood Control and Water Conservation District
Third Appellate District, Case No. C103356
Superior Court Case No. 23CI000079

I, Sandra Rosales, declare:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 300 South Grand Avenue, 25th Floor, Los Angeles, California 90071. My email address is: sandra.rosales@bbklaw.com. On November 26, 2025, I served the document(s) described as **APPLICATION FOR LEAVE TO FILE AMICI CURIAE BRIEF; AMICI CURIAE BRIEF OF LEAGUE OF CALIFORNIA CITIES, CALIFORNIA STATE ASSOCIATION OF COUNTIES, AND CALIFORNIA SPECIAL DISTRICTS ASSOCIATION, IN SUPPORT OF APPELLANT TEHAMA COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT** on the interested parties in this action addressed as follows:

☒ BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, by causing the documents to be sent to the persons at the e-mail addresses listed on the service list on November 26, 2025, from the court authorized e-filing service at TrueFiling. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 26, 2025 at Downey, California.

Sandra Rosales