

(ACWA) Legislation in Action

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Lawsuits and Laws at Play

A dynamic background image featuring a large, energetic splash of blue water on the right side, with several smaller droplets and ripples scattered across the white background.

Stormwater (Sewer)

- *Gluck v. San Francisco*

Hydrants (Water)

- *Toy v. San Francisco; Kessner* litigation
- *Aquilina v. San Francisco*

Validation

- *Gluck v. San Francisco; Aquilina v. San Francisco*

Prop 218 – Why Legislation Matters

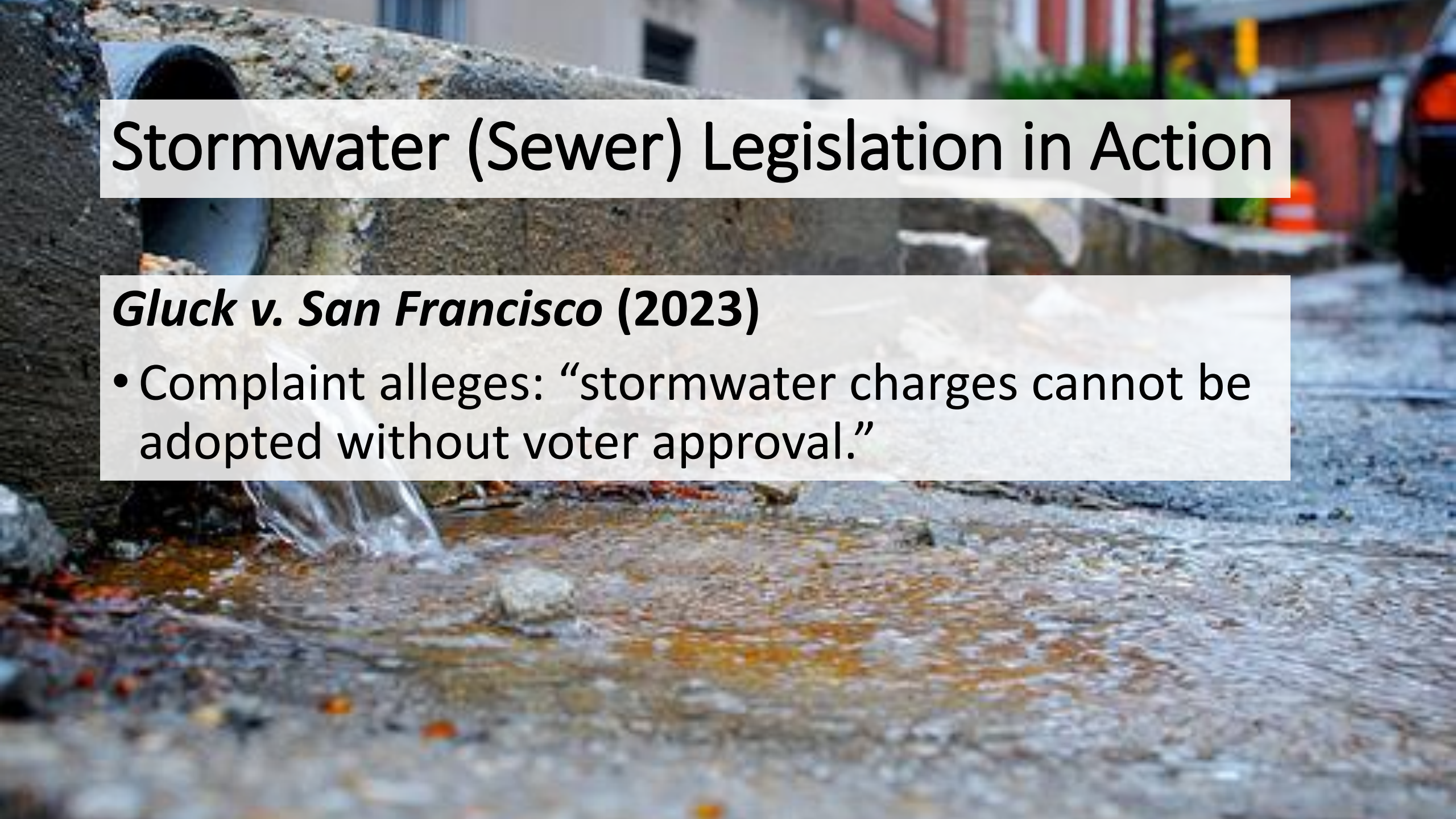
“Legislature’s interpretation of uncertain constitutional terms, as reflected in subsequently enacted legislation, is entitled to great deference by the courts.”

- Davis v. City of Berkeley (1990) 51 Cal.3d 227

Stormwater (Sewer) Legislation

SB 231/Gov. Code §§ 53750, 53751 (2018)

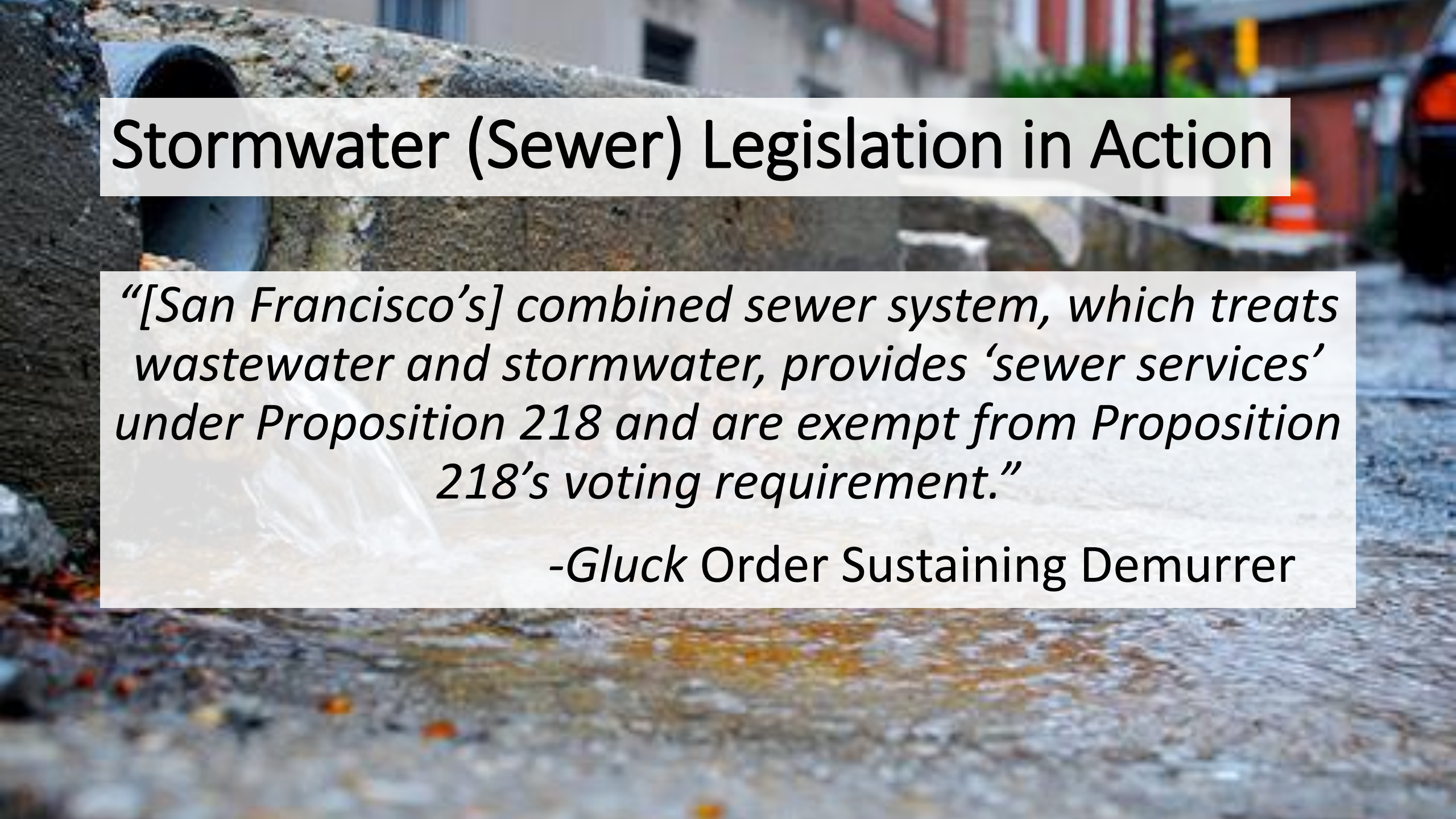
- **Why** – *Howard Jarvis Taxpayers Association v. City of Salinas* (2002) 98 Cal.App.4th 1351 – *held*; stormwater services require voter approval (i.e., not sewer service)
- **What** – Defines stormwater as a component of sewer service

A photograph of a storm drain in a city street. Water is flowing out of the drain onto a wet, paved surface. In the background, there are blurred buildings and a traffic light.

Stormwater (Sewer) Legislation in Action

Gluck v. San Francisco (2023)

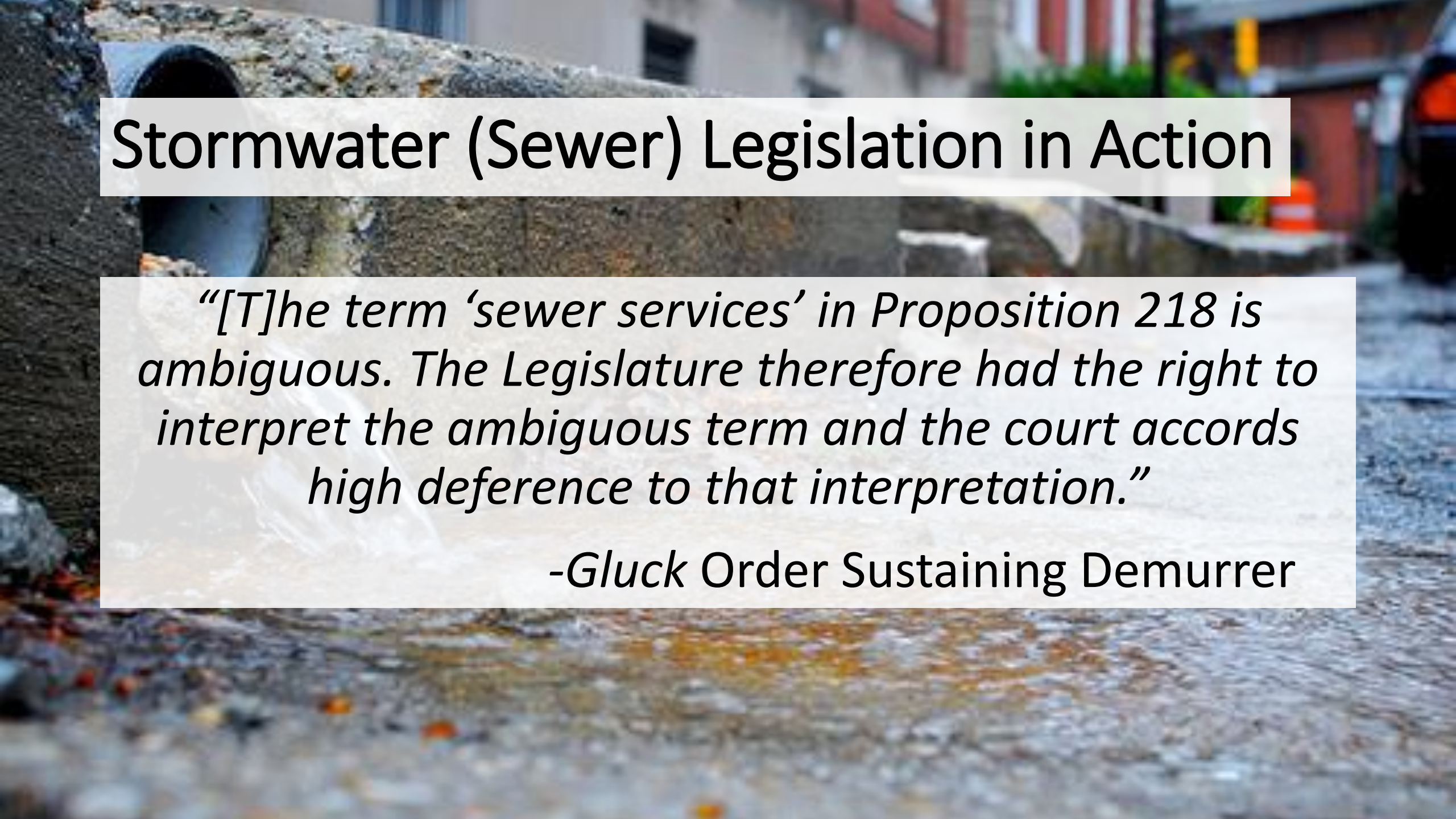
- Complaint alleges: “stormwater charges cannot be adopted without voter approval.”

A photograph of a concrete stormwater drain on a city street. The drain is a circular opening in a concrete curb. In the background, there is a blurred street scene with a red building, a yellow traffic light, and a black car. The foreground shows a wet, paved surface with some fallen leaves.

Stormwater (Sewer) Legislation in Action

“[San Francisco’s] combined sewer system, which treats wastewater and stormwater, provides ‘sewer services’ under Proposition 218 and are exempt from Proposition 218’s voting requirement.”

-Gluck Order Sustaining Demurrer

The background image shows a close-up of a concrete stormwater pipe opening on a sidewalk. The pavement is wet and reflective, with some fallen leaves scattered around. In the blurred background, a street scene is visible with a red building, a yellow traffic light, and a portion of a dark vehicle.

Stormwater (Sewer) Legislation in Action

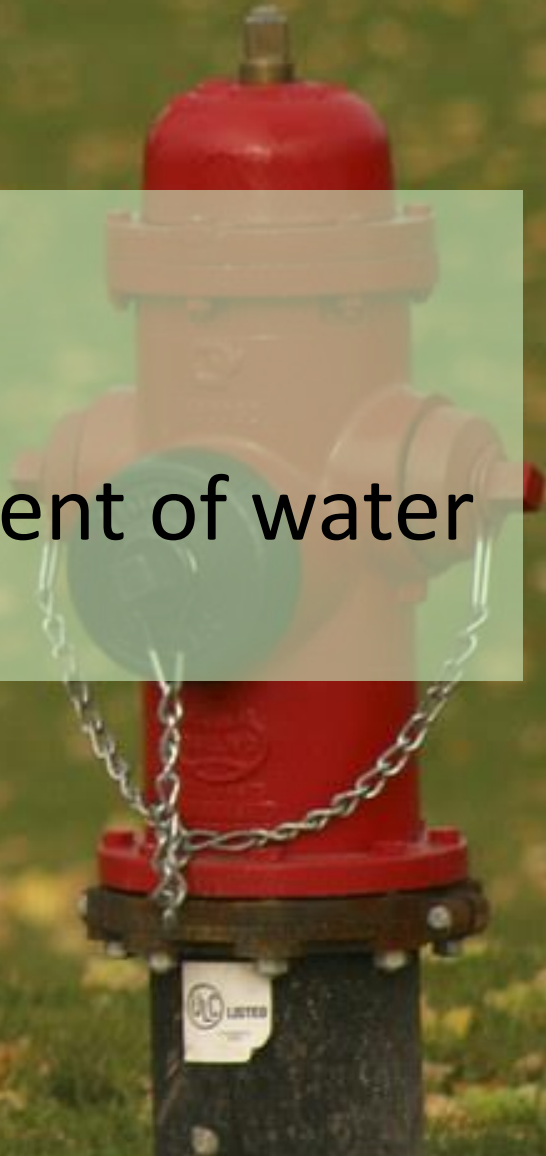
“[T]he term ‘sewer services’ in Proposition 218 is ambiguous. The Legislature therefore had the right to interpret the ambiguous term and the court accords high deference to that interpretation.”

-Gluck Order Sustaining Demurrer

Hydrant (Water) Legislation

SB 1386/Gov. Code § 53750.5 (2020)

- **Why** – *Kessner* litigation
- **What** – Defines hydrants as component of water service under Prop 218



Hydrant (Water) Legislation in Action

Toy v. San Francisco; Aquilina v. San Francisco

- “Plaintiffs allege that [San Francisco] has improperly included costs associated with public fire service in calculating its cost of service.”
- Both lawsuits pending at trial court



Validation Legislation

SB 323/Gov. Code § 53759 (2021)

- **Why** – Continuous accrual
- **What** –
 - Provide notice of validation limitation
 - 120-day statute of limitations to challenge rate action
 - Must first file a Tort Claims Act claim
 - Rates adopted 2022 and on

Validation Legislation in Action

Gluck v. San Francisco; Aquilina v. San Francisco

- SFPUC issued notice with validation language
- Two plaintiffs' groups (*Aquilina*, *Gluck*) filed tort claims and then filed suit
- Defense against any further lawsuits

Under California Government Code section 53759, there is a 120-day statute of limitations for challenging any new, increased, or extended fee or charge. This statute of limitations applies to the water and sewer service rates and charges proposed in this notice. It also applies to future changes to water and sewer rates and charges.

LEGISLATION MATTERS

