

Bond Case Briefs

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Citizens for Fair REU Rates v. City of Redding

Supreme Court of California - August 27, 2018 - P.3d - 2018 WL 4057226 - 18 Cal. Daily Op. Serv. 8613

Taxpayer organization, individuals, and company hired to recover refunds of government fees filed petition for writ of mandate and complaint for declaratory and injunctive relief against city, asserting that payment in lieu of taxes transferred from city electrical utility to city's general fund was unlawful tax.

Organization, individuals, and company filed second complaint against city, seeking declaration that new two-year budget violated requirement that any special taxes for cities be approved by voters. Actions were consolidated. Following bench trial, the Superior Court denied petition for writ of mandate and issued memorandum of decision in favor of city. Organization, individuals, and company appealed, and the Court of Appeal reversed and remanded with directions. The Supreme Court granted review, superseding the opinion of the Court of Appeal.

The Supreme Court of California held that:

- Payment in lieu of taxes was not a "tax" requiring voter approval, and
- Rate utility imposed on ratepayers did not exceed the reasonable costs of providing electrical service and thus was not a "tax" requiring voter approval.

Payment in lieu of taxes transferred from city electrical utility to city's general fund was not a "tax" requiring voter approval under Proposition 26; as utility had more than enough non-rate revenue to cover the payment, the payment was not necessarily passed through to and imposed on ratepayers.

Rate city electrical utility imposed on ratepayers did not exceed the reasonable costs of providing electrical service and thus was not a "tax" requiring voter approval under Proposition 26; revenue realized from rate payments was insufficient to cover utility's other operating expenses, all rate revenues went to covering utility's uncontested operating costs, remaining unpaid shortfall and payment in lieu of taxes to city to cover costs of services that other city departments provided to utility had to be satisfied from utility's other sources of income, and that budgetary transfer was not paid out of rate revenues.