

Bond Case Briefs

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Lakehaven Water and Sewer District v. City of Federal Way

Supreme Court of Washington - June 18, 2020 - P.3d - 2020 WL 3278869

Water and sewer districts brought action against noncharter code city, seeking declaratory judgment that city lacked authority to impose an excise tax on water and sewer utilities, and alleging that tax was unconstitutional.

The Superior Court granted city's motion for summary judgment. Districts' motion for direct review was granted.

The Supreme Court held that:

- City had legislative authority to impose tax on districts;
- Legislature does not need to delegate taxing authority to code cities in "express" terms, abrogating *King County v. City of Algona*, 101 Wash.2d 789, 681 P.2d 1281, *Hillis Homes, Inc. v. Snohomish County*, 97 Wash.2d 804, 650 P.2d 193, and *Carkonen v. Williams*, 76 Wash.2d 617, 458 P.2d 280;
- A municipal corporation providing water-sewer services to ratepayers is a proprietary function not subject to governmental immunity from taxation;
- Districts lacked personal standing to assert due process vagueness challenge;
- Districts lacked representational standing to assert due process vagueness challenge; and
- The state constitution's privileges and immunities clause does not apply to municipal corporations.

Code city had legislative authority to impose excise tax on water and sewer districts, despite contention that express statutory authorization was needed to allow one municipality to impose tax on other municipalities; tax provision of municipal code gave cities broad authority to impose taxes on "all" places and kinds of business, without distinguishing between public and private business entities, and statute governing municipal business and occupation taxes did not apply to services traditionally taxed as a utility business.

The legislature does not need to delegate taxing authority to code cities in "express" terms; general articulations of municipal taxing authority are sufficient as long as the legislature's intent is plain; abrogating *King County v. City of Algona*, 101 Wash.2d 789, 681 P.2d 1281, *Hillis Homes, Inc. v. Snohomish County*, 97 Wash.2d 804, 650 P.2d 193, and *Carkonen v. Williams*, 76 Wash.2d 617, 458 P.2d 280.

A municipal corporation providing water-sewer services to ratepayers is a proprietary function, rather than a governmental function, and thus not subject to governmental immunity from taxation.