
TAX - OHIO

State ex rel. Repeal Lorain County Permissive Sales Tax Committee v. Lorain County Board of Elections

Supreme Court of Ohio - September 15, 2017 - N.E.3d - 2017 WL 4183078 - 2017 -Ohio-7648

Voters sought writ of mandamus, seeking to compel board of elections to certify their petition for repeal of county sales and use tax.

The Supreme Court of Ohio held that:

- Court would not strike as scandalous an accusation that county auditor unlawfully refused to accept certified copy of petition, and
- As matter of first impression, voters did not have clear legal right to have petition placed on upcoming ballot, thus precluding mandamus relief.

Supreme Court would not strike as impertinent or scandalous an accusation in voter's affidavit, that county auditor wrongfully and unlawfully refused to accept a certified copy of referendum petition for repeal of county sales and use tax, in voters' mandamus proceeding against county board of elections seeking to compel board to certify the petition; every mandamus petition accused a government official of unlawful conduct, and the worst that could be said about the accusation was that it was immaterial to issue of board's obligation to certify the petition.

Voters did not have clear legal right to have their initiative petition for repeal of county sales and use tax placed on upcoming ballot under statute governing elections to repeal emergency permissive taxes and, thus, were not entitled to mandamus relief compelling board of elections to certify the petition. Statute set out procedures for repeal of emergency tax resolutions, while a separate statute governed nonemergency tax resolutions, and parties stipulated that the county board of commissioners did not adopt the tax on an emergency basis.

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