

Bond Case Briefs

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Wilde v. City of Dunsmuir

Supreme Court of California - August 3, 2020 - P.3d - 2020 WL 4432754 - 20 Cal. Daily Op. Serv. 7720

City resident filed petition for writ of mandate, seeking to require placement of referendum on ballot.

The Superior Court denied petition. Resident appealed. The Court of Appeal reversed and remanded with directions, and appeal was taken.

The Supreme Court held that:

- Taxation exemption from State Constitution's referendum process applies to measures setting municipal water rates;
- Constitutional articles added by Proposition 218, stating that initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, fee, or charge, did not control whether municipal water rates were subject to challenge by referendum;
- Charges used to fund city's provision of water, like other utility fees used to fund essential government services, are exempt from referendum under State Constitution's taxation exemption; and
- City resolution imposing water rates qualified as a "tax" measure within the meaning of taxation exception to the referendum power in State Constitution; disapproving *Bock v. City Council*, 109 Cal.App.3d 52, 167 Cal.Rptr. 43.

Although California Constitution grants voters the power of referendum, which allows them to approve or reject laws enacted by their elected representatives before the laws take effect, the Constitution exempts certain categories of legislation, including statutes providing for tax levies or appropriations for usual current expenses of the government, and this exemption applies to measures setting municipal water rates.

Constitutional articles added by Proposition 218, stating that initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, fee, or charge, did not control whether municipal water rates were subject to challenge by referendum; definitional provisions of constitutional articles added by Proposition 218 began with the phrase "as used in this article" and did not purport to apply to other provisions of law, nor did the articles contain any other indication of intent to alter or amend the meaning of "tax" as used in any other constitutional provision, including the referendum provision, which predated articles by several decades, and in the absence of such an indication, appellate court would presume that no alteration or amendment was intended, and although appellate courts had duty to harmonize constitutional provisions where possible, this duty did not compel appellate court to graft the tax terminology of constitutional articles onto the referendum provision when the voters had not chosen to do so.

Charges used to fund city's provision of water, like other utility fees used to fund essential government services, are exempt from referendum under State Constitution's taxation exemption;

city depends on water charges to provide water to residents and to maintain the infrastructure necessary to do so, and even the temporary suspension of rate-setting resolution runs risk of undermining city's ability to finance its water utility and manage its fiscal affairs, and the result would be to impair city's ability to carry out one of its most basic and essential functions.

City resolution imposing water rates qualified as a "tax" measure within the meaning of taxation exception to the referendum power in State Constitution; disapproving *Bock v. City Council*, 109 Cal.App.3d 52, 167 Cal.Rptr. 43. Cal.