

Bond Case Briefs

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PUBLIC UTILITIES - CALIFORNIA

Humphreville v. City of Los Angeles

Court of Appeal, Second District, Division 2, California - December 3, 2020 - Cal.Rptr.3d - 2020 WL 7065315 - 20 Cal. Daily Op. Serv. 12,480

City resident brought action against city, city's Department of Water and Power, and city Board of Water and Power Commissioners, alleging that defendants' annual practice of transferring surplus from city-owned utilities to city's general fund constituted a "tax" that required voter approval.

The Superior Court sustained defendants' demurrer without leave to amend. Resident appealed.

The Court of Appeal held that city's practice of transferring surplus from city-owned utilities to city's general fund did not constitute a "tax" requiring voter approval.

City's alleged ongoing practice of transferring a surplus from city-owned utilities to city's general fund, when rates charged to customers nevertheless did not exceed costs of providing electricity to them, did not constitute a "tax" that required voter approval; practice did not satisfy definition of a "tax" under plain language of the California Constitution, conclusion was one that best aligned with purpose behind Constitution's restrictions on local taxation to stop local governments from extracting more revenue from taxpayers, and Supreme Court precedent strongly suggested that yearly transfers of surplus funds did not constitute a "tax" when they did not cause the utility rates to exceed costs of providing electricity.