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City and County of San Francisco v. All Persons Interested in Matter of Proposition G

Court of Appeal, First District, Division 4, California - July 26, 2021 - Cal.Rptr.3d - 2021 WL 3140071 - 21 Cal. Daily Op. Serv. 7511

Following amendment to California Constitution, which required that any special tax adopted by a local government entity take effect only if approved by a two-thirds vote of the electorate, city and county brought action to establish that initiative measure entitled "Parcel Tax for San Francisco Unified School District," was validly enacted.

The Superior Court granted summary judgment in favor of city.

The Court of Appeal held that:

- Constitutional provision does not repeal or abridge by implication the people's power to raise taxes by initiative;
- Constitutional provision did not constrain initiative power;
- Constitutional provision cannot prevent the people, exercising their initiative power, from adopting an identical tax; and
- State initiative qualified for ballot measure through method in which voters could propose measure by initiative petition.

Although the constitutional provision requiring two-thirds vote of qualified electors to approve special taxes, requires governmental entities to gain approval of supermajority of voters before imposing a special tax, it does not repeal or otherwise abridge by implication the people's power to raise taxes by initiative, and to do so by majority vote; any such partial repeal by implication is not favored by law, which imposes a duty on courts to jealously guard, liberally construe and resolve all doubts in favor of exercise of the initiative power.

Constitutional provision requiring two-thirds vote of qualified electors to approve special taxes adopted by a "local government" did not constrain initiative power for the same reasons that supermajority vote requirements did not apply to citizens' initiatives; the text of the constitutional provision did not reach the electorate, as the electorate was not an "agency."

Just as the State Constitution does not prohibit local government from adopting a special parcel tax with voter approval, so it cannot prevent people, exercising their initiative power, from adopting an identical tax.

State initiative measure entitled "Parcel Tax for San Francisco Unified School District," qualified for ballot measure based on city charter recognizing two ways to put measures on the ballot, and specifically method in which voters could propose measure by initiative petition; city's evidence showed that initiative qualified for the ballot showing that initiative qualified for ballot, including evidence of a declaration from director of elections and copies of the material submitted to director by three citizen proponents of initiative.

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