

# **Bond Case Briefs**

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## **WATER LAW - CALIFORNIA**

### **City of San Buenaventura v. United Water Conservation District**

**Court of Appeal, Second District, Division 6, California - May 26, 2022 - Cal.Rptr.3d - 2022 WL 1679400**

City petitioned for writ of mandate and filed complaint for determination of invalidity and declaratory relief asserting that groundwater extraction charge adopted by water conservation district for non-agricultural users that was three times the charge for agricultural users was a tax that required voter approval, and alleging that statute that required at least a three-to-one ratio between charges was facially unconstitutional.

The Superior Court entered judgment declaring charge invalid and finding statute unconstitutional. District appealed.

The Court of Appeal held that:

- City's claim challenging validity of charge was subject to independent, not rational basis, review;
- Charge was tax that required voter approval; and
- Statute requiring minimum of three-to-one ratio between charges was facially unconstitutional.

City's claim challenging validity of groundwater extraction charge adopted by water conservation district for non-agricultural users that was three times charge for agricultural users on basis that charge was unconstitutional tax without voter approval was subject to independent, not rational basis, review of administrative record; validity of charges presented constitutional question, and one purpose of constitutional provision that broadened definition of taxes that required voter approval was to curtail deference that had been traditionally accorded legislative enactments on fees, assessments, and charges.

Groundwater extraction charge adopted by water conservation district for non-agricultural users that was three times charge for agricultural users did not bear reasonable relationship to burdens or benefits of district's conservation activities, and thus, was not excepted from constitutional requirement of voter approval of any levy, charge, or exaction of any kind imposed by local governments, even if agricultural land had greater natural recharge of water than non-agricultural land, since agricultural land's relatively high recharge rate per acre-foot was swamped by its total pumpage, which accounted for 77% of net extractions.

Statute requiring a water conservation district to adopt a groundwater extraction charge for non-agricultural users that was at least three times more than charge for agricultural users facially violated constitutional requirement of voter approval of any levy, charge, or exaction of any kind imposed by local governments unless that charge bore reasonable relationship to payor's burdens on, or benefits received from, the governmental activity, even if there might be circumstances in which three-to-one ratio was justified, since such justification would have nothing to do with requirements under statute.

