



Local Special Taxes Proposed by Voter Initiative Subject to Majority Voter Approval

The Court of Appeal for the First Appellate District has ruled that a special tax placed on the ballot by voter initiative must be approved by a simple majority of the electorate to pass. The Court rejected the argument that the two-thirds voter approval requirement for special taxes placed on the ballot by a local governmental agency also applies to special taxes proposed by voter initiative. As a result of this ruling, cities and counties and other voting jurisdictions may see more voter driven special tax initiatives due to the lower simple majority threshold to pass.

In *City and County of San Francisco v. All Persons Interested in the Matter of Proposition C*, San Francisco sought confirmation that the special tax proposed by Proposition C was validly enacted. Sixty-one percent of the voters voted for Proposition C, which proposed a special tax to fund homeless services. Proposition C was an initiative placed on the ballot by voter petition. The Court considered whether provisions of Propositions 13 and 218 requiring two-thirds voter approval for special taxes imposed by local government, apply to special taxes imposed through the initiative power.

The Court relied heavily on California Supreme Court precedent interpreting Propositions 13 and 218 as not placing limitations on the constitutional initiative power. In 1991, the California Supreme Court ruled in *Kennedy Wholesale, Inc. v. State Board of Equalization* that the requirements in Proposition 13 that increases to statewide taxes be approved by two-thirds of both houses of the Legislature did not impliedly place a requirement for two-thirds voter approval for any statewide tax placed on the ballot. More recently, in 2017 the California Supreme Court in *California Cannabis Coalition v. City of Upland* ruled that Proposition 218's requirement that a general tax proposed by a local government must be voted on at a general election did not apply to general taxes proposed by initiative. In both of these cases, the Supreme Court focused on the fact that neither the plain language of Propositions 13 and 218, nor the ballot materials for those propositions, indicate any intent to circumscribe the constitutional right to initiative.

Following these precedents, the Court of Appeal stated "this silence drives our analysis." Relying on established legal principles, the Court refused to find that the provisions of Propositions 13 and 218 in

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question partially repealed by implication the people's constitutional initiative powers. Not only does the law disfavor repeal by implication, the law "imposes a duty on courts to jealously guard, liberally construe and resolve all doubts in favor of the exercise of the initiative power."