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Special Taxes Enacted by Initiative Do Not Require Two-Thirds Supermajority Vote



A court of appeal ruled that provisions of the California Constitution requiring a supermajority vote for special taxes imposed by local government do not apply to a special tax enacted by local initiative. [*City and County of San Francisco v. All Persons Interested in the Matter of Proposition C*](#), 51 Cal. App. 5th 703 (2020).



In 2018, San Francisco voters approved

Proposition C, a citizen-sponsored initiative, with an affirmative vote of 61.34% of those who voted on the measure. Proposition C authorized the City to collect additional business taxes to be placed in a dedicated fund and used solely for specified homeless services, including housing programs, mental health services, prevention programs and hygiene programs. Relying on California Propositions 13 (1978) and 218 (1996), business and taxpayer associations contended that Proposition C was invalid because it had not been enacted by two-thirds of the voters. The court rejected the associations' arguments and upheld Proposition C. It relied heavily on California Supreme Court precedent holding that the two-thirds majority vote requirement of Proposition 13 did not apply to a statewide special tax adopted by initiative, and that the requirement of Proposition 218 that taxes be approved at a general election likewise did not apply to a general tax enacted by local initiative. The California Supreme Court's prior cases had made clear that the provisions of Propositions 13 and 218 imposing requirements on cities, counties, special districts and other local governmental entities were to be interpreted as applying only to councils, boards and other representative bodies, not the electorate. As determined in those prior cases, there is nothing in either Proposition 13 or Proposition 218 that impliedly overruled the power of initiative to enact laws by simple majority vote. Moreover, while voters are bound by the substantive limitations applicable to legislative actions taken by boards and councils, they are not bound by procedural requirements such as a two-thirds vote requirement. The associations also contended that the San Francisco charter, which states that initiative measures must be "within the powers conferred upon the Board of Supervisors" precluded the voters from enacting taxes without a supermajority vote. The court rejected that argument as well, again noting that such procedural requirements do not apply to the voters. It upheld the trial court's grant of judgment on the pleadings in favor of the city, concluding that "passage of Proposition C pursuant to a majority vote of the City's electorate was a valid exercise of the people's initiative power."

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